

BROOKHAVEN SCIENCE ASSOCIATES, L.L.C.
PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
BROOKHAVEN NATIONAL LABORATORY
UPTON, NY 11973

Invitation for Bids (IFB), Bid and Award for Construction:
Central Chilled Water Facility - Phase II (CCWF - II)

1. **Information:** Brookhaven Science Associates, L.L.C. ("BSA") has entered into Prime Contract DE-AC02-98CH10886 with the United States of America ("the Government"), as represented by the United States Department of Energy ("DOE"), to operate the Brookhaven National Laboratory (BNL). In furtherance of the Prime Contract, BSA desires to contract for certain work described below. **Sealed bids for this work, in duplicate, will be received at Building No. 134-C until 3:00 P.M. EST on Friday, April 24, 2009.**

Pursuant to the Instruction to Bidders (Attachment B), Section 8 – Late Submissions, Modifications and Withdrawals, BSA reserves the right to consider late bids or incomplete bids, and to waive irregularities in bids. Any or all bids may be rejected if BSA determines such action is in its best interest. **BIDS WILL BE OPENED IN PRIVATE.**

Any questions or requests for additional information should be directed to Philip Gardner, Sr. Contracts Specialist, at 631-344-3199; fax 631-344-2884, e-mail gardnerp@bnl.gov.

Brookhaven National Laboratory
Brookhaven Science Associates, LLC
Attn: Philip Gardner/Linda Niksa – Bldg. 134-C
Brookhaven Avenue
Upton, NY 11973-5000

Bids must indicate the IFB No. CCWF-II and "ATTN: Philip Gardner/Linda Niksa, Procurement and Property Management Division, Construction Support Section" on the outside label.

A Pre-Bid meeting and inspection of the jobsite will be held at 10:00 A.M. on Tuesday, April 07, 2009 in the Brookhaven Center, South Room, Building No. 30. All prospective bidders are urged to attend. Project information will be reviewed and there will be a question and answer session prior to viewing the jobsite.

Estimate of the entire project is approximately **\$10 to \$16 million.**

2. **Scope of the Work:** Furnish all labor, services, materials, tools, plant and equipment required to complete all of the following work: Expansion of the Central Chilled Water Facility in strict accordance with BSA Specification No. 11705, Attachment 1 dated February 19, 2009 and drawings listed therein.

3. **Performance:** All work shall be performed in strict accordance with the specifications and drawings and Attachment A (General Terms and Conditions for Construction and Labor Hour Contracts, Rev 4, Approved 02/17/09) including Appendix A to Attachment A (Davis-Bacon Wage Determination).
4. **Term of the Work:** The work shall be completed within eighty (80) weeks after contract award.

BSA has established the following schedule of anticipated dates for achieving its goals:

Milestone	Date
Pre-Bid Conference	April 07, 2009
Bids Due	April 24, 2009
Award	2 weeks after bid due date.
Submittal of Bonds, Insurance and Safety Plan	2 weeks after award.
Project Completion	80 weeks after contract award.

5. **Bid Bonds:** Bid bonds are required on all bids exceeding \$100,000. See Attachment B, *Instructions to Bidders*.
6. **Obligation of Funds:** The project will be phase funded over a period of two fiscal years. The amount obligated in FY2009 will be Five Million USD (\$5,000,000.). Project schedules and bids shall be based upon this funding profile. It is anticipated that the balance will be obligated in FY2010. The Contractor must notify BSA's Procurement and Property Management (PPM) Division when the amount due the Contractor from BSA reaches 85% of the funds obligated to the Contract for a funding period (including potential termination costs). At that time, the Contractor must also notify BSA's PPM Division of any need for additional funds over the obligated amount. The Contractor shall perform work only up to the point at which the amount of funds currently obligated to this Contract is exhausted.. The Contractor shall not exceed the obligated funds without written authorization of BSA's PPM Division manager or his designee. BSA is not obligated to pay or reimburse the Contractor for any expenditure in excess of the obligated amount.
7. **Additional Requirements:** In addition to submitting your bid, you are required to execute the attached Contractor Qualification Criteria Form for this Project.
8. **Basis of Award:** BSA will evaluate bids in response to this solicitation without discussions, and award will be made to the bidder whose bid is lowest, and who meets the qualification requirements.

The Priority of Award is as follows:

- | | |
|-----------------|--------------------------------------|
| Priority No. 1: | Base Bid + Alternate Nos. 1, 2 and 3 |
| Priority No. 2: | Base Bid + Alternate Nos. 1 and 2 |
| Priority No. 3: | Base Bid + Alternate No. 1 |
| Priority No. 4: | Base Bid + Alternate No. 2 |
| Priority No. 5: | Base Bid |

9. **Work Safe:** BSA's safety and OSHA requirements will be monitored and strictly enforced. Failure to comply with safety and OSHA requirements may result in termination of the contract and/or removal of a specific individual from working on the BNL site for an indefinite period. In performing work under this Contract, the Contractor shall comply with all applicable federal, state and local environment, safety and health laws and regulations. The Contractor shall also comply with 10 CFR 851, DOE Worker Safety and Health Program, Article 43, *Integration of Environment, Safety and Health into Work Planning and Execution*, of Attachment A, *General Terms and Conditions for Construction and Labor Hour Contracts*, and BSA's DOE-approved Worker Safety and Health Program (see <http://www.bnl.gov/esh/shsd/>).

BID

Date of Bid _____

In reply to the above invitation, the undersigned offers and agrees, if this bid is accepted by BSA within ninety (90) days from the bid due date (during which time this bid shall be irrevocable), to perform the work therein described in accordance with the provisions therein contained for:

Total Price for: Base Bid + Alternate Nos. 1, 2 and 3\$ _____
 Total Price for: Base Bid + Alternate Nos. 1 and 2.....\$ _____
 Total Price for: Base Bid + Alternate No. 1:\$ _____
 Total Price for: Base Bid + Alternate No. 2:\$ _____
 Total Price for: Base Bid:.....\$ _____

Acknowledgment of Amendments: The bidder acknowledges receipt of amendments to the solicitation – give number and date of each. Failure to do so will render the bid non-responsive.

Amendment No.									
Date									

Contractor's Technical Representative: _____ is the Contractor's authorized technical representative, hereunder. He/she shall act as point of contact between BSA and the Contractor in technical matters only. He/she can be reached at _____ (phone), _____ (e-mail).

Contractor's Contractual Representative: _____ is the Contractor's authorized contractual representative, hereunder. He/she shall act as liaison between BSA and the Contractor in contractual matters only. He/she can be reached at _____ (phone), _____ (e-mail).

IFB Attachments:	
Qualification Criteria (J/N 11705)	
Attachment A, General Terms and Conditions for Construction and Labor Hour Contracts at Brookhaven National Laboratory (Rev 4 – Construction , Approved 02/17/09) Appendix A to Attachment A, Davis-Bacon Wage Determination No NY080013 (dated 03/06/2009)	Attachment E Representations and Certifications Supplier Information (AMS Form 010)
	Attachment F BNL Supplier Quality Assurance Requirements (BNL-QA-101)
	Attachment G, Payment Bond (AMS Form 025)
	Attachment H, Performance Bond (AMS Form 024)
Attachment B, Instructions To Bidders	Attachment I, SF1413, Statement and Acknowledgment
Attachment C Bid Bond (AMS Form 017)	Attachment J, Small Business Subcontracting Plan
Attachment D, Representations and Certifications Procurement Specific (AMS Form 009)	Attachment 1, Specification No. 11705, dated February 19, 2009.

By submitting this bid, I hereby acknowledge and agree to flow down all contractual, technical and safety related requirements to all subcontractors as well as sub tier subcontractors.

Company Name: _____

Address: _____

Authorized Signature

Print Name and Title

Date

ACCEPTANCE AND AWARD

TO BE COMPLETED BY BSA

The above-named bidder (the "Contractor") has offered the above bid for BSA's acceptance; and BSA hereby accepts the BID for the firm fixed price of \$_____. In return for stated consideration, the Contractor agrees to complete all specified work by no later than _____.

This award is made for \$_____.

Payments will be made in accordance with Article 20 of Attachment A, General Terms and Conditions for Construction and Labor Hour Contracts at Brookhaven National Laboratory. Invoices, in duplicate, shall be submitted to BSA's Contractual Representative.

Obligation of Funds: The project will be phase funded over a period of two fiscal years. The amount obligated in FY2009 will be Five Million USD (\$5,000,000.). Project schedules and bids shall be based upon this funding profile. It is anticipated that the balance will be obligated in FY2010. The Contractor must notify BSA's Procurement and Property Management (PPM) Division when the amount due the Contractor from BSA reaches 85% of the funds obligated to the contract for a funding period (including potential termination costs). At that time, the Contractor must also notify BSA's PPM Division of any need for additional funds over the obligated amount. The Contractor shall perform work only up to the point at which the amount of funds currently obligated to this Contract is exhausted.. The Contractor shall not exceed the obligated funds without written authorization of BSA's PPM Division manger or his designee. BSA is not obligated to pay or reimburse the Contractor for any expenditure in excess of the obligated amount.

Payment and Performance Bonds: Payment and performance bonds are required in accordance with Article 6 of Attachment A, General Terms and Conditions for Construction and Labor Hour Contracts at Brookhaven National Laboratory.

BSA's Technical Representative: Mr. _____ of the Modernization Project Office located in Building T-650 is BSA's technical representative hereunder. He shall act as liaison between BSA and the Contractor in technical matters only. He can be reached at (631) 344-_____ (phone), _____(e-mail).

BSA's Contractual Representative: Mr. Philip Gardner, located in Building 134-C, Telephone No. (631) 344-3199, (e-mail) gardnerp@bnl.gov, is BSA's contractual representative. Any change or modification in the terms and conditions of this Contract shall require the written approval of BSA's Procurement and Property Management Division's Manager or his designee.

Contract Attachments:	
Attachment A, General Terms and Conditions for Construction and Labor Hour Contracts at Brookhaven National Laboratory (approved _____) Appendix A to Attachment A, Davis-Bacon Wage Determination No. _____ (dated _____)	Attachment I, SF1413, Statement and Acknowledgment
	Attachment J, Small Business Subcontracting Plan
	Attachment 1, Specification No. 11705, dated February 19, 2009.
Attachment F BNL Supplier Quality Assurance Requirements (BNL-QA-101)	
Attachment G, Payment Bond (AMS Form 025)	
Attachment H, Performance Bond (AMS Form 024)	

This Contract does not bind nor purport to bind the United States Government.

BROOKHAVEN SCIENCE ASSOCIATES, L.L.C.

By: _____

Title: Michael J. Bebon
Deputy Director for Operations

Date: _____

ln#g/CCWFII.IFB

QUALIFICATION CRITERIA

Central Chilled Water Facility – Phase II

J/N 11705

Company Name: _____

A. QUALIFICATION CRITERIA

1. Contractor, and proposed electrical and mechanical subcontractors, have satisfactorily completed one or more projects of similar scope, size and complexity as the Central Chilled Water Facility – Phase II project within the last seven (7) years.

Yes ☐ No ☐

2. Proposed Project Superintendent has successfully supervised the construction of one or more projects of similar scope, size and complexity as the Central Chilled Water Facility – Phase II project within the last seven (7) years.

Yes ☐ No ☐

- *3. Contractor's average of 2004, 2005, 2006, and 2007 rates are less than the following OSHA rates:

Lost time frequency rate (DART) = 2.8
Recordable incident rate = 5.4

Yes ☐ No ☐

- *4. Contractor's 2004, 2005, 2006, and 2007 insurance Experience Modification Ratings are equal to or less than 1.0 for each year.

Yes ☐ No ☐

5. Contractor has a comprehensive written Corporate Construction Safety and Training Program.

Yes ☐ No ☐

* After award, Subcontractor(s) submitted for approval, as defined in Specification "Section 00700, General Conditions, Subcontractor(s) Approval" must also meet the current published OSHA DART Rate and Recordable Incidence Rates for construction in their trades. Subcontractor(s) shall also have an insurance Experience Modification Rating equal to or less than one (1).

B. SUBMITTALS

1. Submit a list of similar projects constructed during the last seven (7) years to demonstrate compliance with Qualification Criteria A. 1 For each project indicate:
 - a) Project Title
 - b) Contract Amount
 - c) Detailed Description of Work
 - d) Name, Address and Telephone Number of Owner or Contracting Officer.
2. For the mechanical and electrical subcontractors, submit a list of projects constructed during the last seven (7) years demonstrating successful experience in constructing projects similar to the Central Chilled Water Facility Expansion. For each project indicate:
 - a) Project Title
 - b) Contract Amount
 - c) Description of Work
 - d) Name, Address and Telephone Number of Owner or Contracting Officer.
3. Submit resume for the proposed Project Superintendent to demonstrate compliance with Qualification Criteria A.2. Include in the resume the following information on similar projects:
 - a) Project Title
 - b) Contract Amount
 - c) Description of Work
 - d) Name, Address and Telephone Number of Owner or Contracting Officer.
4. Submit the following Contractor rating information:

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>Average</u>
a) Lost time frequency rate (DART)	= ()	+ ()	+ ()	+ ()	÷ 4 = ()
b) Recordable Incident Rate	= ()	+ ()	+ ()	+ ()	÷ 4 = ()
c) Experience Modification Rate	= ()	()	()	()	

Provide backup documentation from an independent source, such as the insurance carrier, to verify ratings.

5. Submit copy of Contractor's OSHA 300 logs and total number of hours worked for 2004, 2005, 2006, and 2007.
6. Submit copy of Contractor's Corporate Construction Safety and Training Program.

This attachment addresses the qualification criteria the Contractor must meet in order to qualify to receive award. **Failure to acknowledge a "YES" to any of the Qualification Criteria, and provide the required substantiating submittals with the bid, may result in the bid being considered non-responsive.** Brookhaven Science Associates (BSA) reserves the right to accept or reject any bid based on the Qualification Criteria requirement.

COMPANY NAME: _____

SIGNED/TITLE: _____

DATE: _____

ATTACHMENT A
BROOKHAVEN SCIENCE ASSOCIATES, LLC
GENERAL TERMS AND CONDITIONS
FOR CONSTRUCTION AND LABOR HOUR CONTRACTS
AT
BROOKHAVEN NATIONAL LABORATORY

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ATTACHMENT A
BROOKHAVEN SCIENCE ASSOCIATES, LLC
GENERAL TERMS AND CONDITIONS
FOR CONSTRUCTION AND LABOR HOUR CONTRACTS
AT
BROOKHAVEN NATIONAL LABORATORY

Article 1. Definitions

The following terms shall have the meanings below:

- (a) "BSA" means Brookhaven Science Associates, LLC acting under Prime Contract No. DE-AC02-98CH10886 between BSA and the Government for the operation of Brookhaven National Laboratory, and includes the successor to, or any duly authorized representative of BSA.
- (b) "Contractor" means any person or organization that has entered into this Agreement with BSA.
- (c) "Government" means the United States of America and includes the U.S. Department of Energy (DOE) or any duly authorized representative(s) thereof.
- (d) "Brookhaven", "BNL", and "the Laboratory" mean the Brookhaven National Laboratory site at Upton, New York.
- (e) "BSA's PPM Division" means the BSA Procurement and Property Management Division (PPM) person responsible for contractual matters.
- (f) "Agreement" means contract, Basic Ordering Agreement (BOA), Task Agreement, and any modifications thereto, including all contract documents. It includes without limitation the specifications, drawings, the General Terms and Conditions and any special or supplemental terms and conditions, when incorporated into this agreement by reference or otherwise.
- (g) "Contract Documents" means all documents that comprise this Agreement including without limitation, the specifications, drawings, the General Terms and Conditions and any special or supplemental terms and conditions, when incorporated into this Agreement by reference or otherwise.

Article 2. Order of Precedence

In the event of an inconsistency among provisions of this Agreement, the inconsistency shall be resolved by giving precedence in the following order: (a) the text of this Agreement, (b) special terms and conditions attached thereto, (c) General Terms and Conditions, (d) the Specifications, and (e) the Drawings, if incorporated in this Agreement by reference or otherwise.

Article 3. Complete Agreement

This Agreement expresses the entire Agreement and understanding of the parties with respect to the subject matter hereof and supersedes any prior oral and written agreements between the parties. It may only be modified in writing executed by both BSA and the Contractor.

Article 4. Assignment

The Contractor shall not assign its rights and/or obligations hereunder to third parties without BSA's prior written consent. However, the Contractor may assign its rights to be paid amounts due or to become due under this Agreement to a financing institution if BSA is promptly furnished written notice and a signed copy of such assignment. This Agreement is assignable by BSA to the Government or to a successor contractor to operate Brookhaven National Laboratory. The Contractor agrees to look solely to the Government or to such successor contractor for payment of the part so assigned, and to execute a novation agreement so recognizing the successor contractor if requested to do so by BSA.

Article 5. Independent Contractor; Hold Harmless

- (a) In conducting the work hereunder the Contractor is acting in the capacity of an independent contractor and is not an agent or employee of BSA and/or the Government. However, BSA shall have the right to control the general direction of the work, within the limits of the specifications and the parties agree that such direction shall not constitute a change to this Agreement. Nothing contained in this Agreement or any lower-tier subcontract shall create any contractual relationship between any such lower-tier subcontractor and BSA. The Contractor is solely responsible for its actions and those of its subcontractors, agents and/or employees.
- (b) The Contractor will defend, hold harmless and indemnify the Government and BSA and their respective officers, agents and employees from and against any and all liability, including all losses and damages and any expense connected therewith arising out of or connected with the work, excepting only liability arising

from affirmative acts, done with intent to cause loss, damage or injury, by BSA, the Government or the officers, agents or employees of either.

- (c) The Contractor's obligations under this clause shall not be limited by any legal limitation on the amount or type of damages, compensation or benefits payable under workers' compensation acts, disability benefit acts or other employee benefit acts.
- (d) The Contractor's liability insurance shall provide coverage for the Contractor's obligations under this clause in accordance with the Article on Insurance.

Article 6. Performance and Payment Bond Requirements

- (a) If the contract price is \$100,000 or more, within fourteen (14) days after contract award, and before commencing work, the Contractor shall furnish performance and payment bonds in the amounts described below with a surety company holding a certificate of authority from the Secretary of the Treasury (see Department of the Treasury Circular 570). The bonds shall be submitted on the forms provided by BSA. In lieu of a payment or performance bond, the Contractor may furnish a certified check payable to BSA in the amount of one hundred percent (100%) of the bond amount.
 - (i) *Performance Bond*: 100% of the contract price;
 - (ii) *Payment Bond*: 100% of the contract price;
 - (iii) *Labor hour contracts*: Require a payment bond of \$75,000.
- (b) Performance bonds shall remain effective until the warranty period under the *Warranty of Construction* Article has expired, and payment bonds shall remain effective until final payment under the *Payment* Article.
- (c) After commencing work, BSA may require the Contractor to furnish additional security to protect BSA, the Government and persons supplying labor or materials under this Agreement if any bond furnished becomes unacceptable or the contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of BSA's PPM Division.

Article 7. Compliance with Laws and Regulations

The Contractor shall comply with all applicable federal, state, and local laws and ordinances and all pertinent lawful orders, rules and regulations, including those applicable by reason of the fact that this Agreement is issued under a prime contract with the Government. Such compliance is a material requirement of this Agreement. The Contractor is responsible for obtaining any necessary licenses and/or permits without additional expense to BSA. The Contractor warrants that each chemical substance constituting or contained in supplies furnished under this Agreement is on the list of substances published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act as amended.

Article 8. Compliance with Environment, Safety, Health, and Traffic Regulations

- (a) The Contractor shall take all reasonable precautions to protect the environment and the safety and health of employees and the public in the performance of work hereunder. The Contractor shall comply with the rules and regulations set forth in BSA's Safety Program, Contractor Orientation Program, all applicable OSHA standards, BNL's ES&H Standards, Security Protocols and NY State Vehicle and Traffic Laws.
- (b) **The consumption or unauthorized possession of alcoholic beverages is prohibited in all areas of the BNL site. Personnel who consume alcohol off-site or found in possession of alcoholic beverages shall be restricted from entering BNL.**
- (c) **All contractor personnel that may be working on or near energized electrical equipment (as defined in BNL's Electrical Safety subject area: https://sbms.bnl.gov/sbmssearch/subjarea/192/192_sa.cfm?parentID=192 must provide objective evidence to BSA's Work Control Coordinator/Manager or designee of having satisfactorily completed electrical safety training that meets the requirements of NFPA 70E prior to performing work on site to assure awareness of the hazards and safety-related work practices.**
- (d) If the Contractor fails to comply with said regulations or requirements, BSA may issue an order stopping all or any part of the work hereunder, without prejudice to any other legal or contractual rights BSA may have. A start order for resumption of the work may be issued at Brookhaven's discretion. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, such work stoppage.
- (e) BSA reserves the right to charge back to the Contractor actual costs incurred by BSA directly or indirectly to perform safety inspections, complete paperwork, investigate and prepare occurrence reports as a result of the Contractor's failure to comply with said regulation or requirement. A non-negotiable unilateral deduct change order will be issued to the Contractor, and punitive penalties may be assessed to individuals by

dismissing them *from* the Brookhaven site based on the extent of the noncompliance. BSA will evaluate the Contractor on its safety performance, including that of its subcontractors. The number and severity of safety and security violations, including traffic violations, will be considered in this evaluation. Repeated and/or willful violations are cause for termination for default and may affect the Contractor's opportunity to bid on future work at BNL.

Article 9. Drug-Free Workplace

(a) Definitions. As used in this clause--

- "Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.
- "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
- "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
- "Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.
- "Employee" means an employee of a Contractor directly engaged in the performance of work under this Agreement.
- "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance
- "Individual" means a Contractor that has no more than one employee including the Contractor.

(b) Within 30 days after award (unless a longer period is agreed to in writing by BSA's PPM Division, or as soon as possible for contracts of less than 30 days performance duration, the Contractor shall

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited on the Brookhaven site and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about (i) the dangers of drug abuse in the workplace; (ii) the Contractor's policy of maintaining a drug-free workplace; (iii) any available drug counseling, rehabilitation, and employee assistance programs; and (iv) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;
- (4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this Agreement, the employee will (i) abide by the terms of the statement; and (ii) notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notify the BSA Contractual Representative in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace: (i) taking appropriate personnel action against such employee, up to and including termination; or (ii) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) In addition to other remedies available to BSA, the Contractor's failure to comply with the requirements of paragraph (b) of this clause may render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension from award of further BSA Contracts.

Article 10. Hazardous Material Identification and Material Safety Data Sheets

With or before each delivery, the Contractor shall submit a Material Safety Data sheet, as prescribed in 29 CFR 1910.1200 and the latest version of Federal Standard No. 313, for all hazardous material delivered under this Agreement which will involve exposure to hazardous materials or items containing these materials, whether or not it is listed in Appendix A of the Standard. As used in this Article, "hazardous material" is as defined in the latest version of Federal Standard No. 313, including revisions adopted during the term of this Agreement.

Article 11. Reporting of Accidents

The Contractor shall notify BSA immediately of any injury or alleged injury, and of any loss, destruction or damage to property of BSA or the government, and shall promptly furnish BSA with a statement concerning such injury, damage or loss in such detail as BSA may require. All accident reports filed with the Contractor's Worker's Compensation carrier (Forms C2.5 and C11) and the total man-hours lost as a result of an accident under this Agreement shall be submitted monthly to BSA's PPM Division.

Article 12. Inspection of Vehicles and Materials

- (a) All vehicles removing materials from anywhere on the Brookhaven site must pass through the unmanned Vehicle Radiation Monitoring System (VRMS) before and after the materials are loaded. If radioactive materials are detected, the driver shall immediately notify BSA by calling the number indicated on the VRMS telephone. The VRMS is located on the north side of Princeton Avenue between Upton Road and Weaver Drive.
- (b) A vehicle found to contain radioactive material may not leave the Brookhaven site until the material is identified and removed. Only vehicles carrying radioactive materials that are properly packaged and labeled in accordance with U.S. Department of Transportation regulations are exempt from this procedure. Materials removed from known radiological areas must be monitored in accordance with the applicable provisions of the procedure FS-SOP-1005, Radiological Surveys required for the Release of Material from Areas Controlled for Radiological Purposes found at: (<https://sbms.bnl.gov/SBMSearch/ld/ld19/ld19d081.doc>), a copy of which is available for review at BSA's PPM Division.
- (c) BSA reserves the right to inspect and search vehicles entering or leaving the site.

Article 13. Insurance

- (a) The Contractor shall, at no cost to BSA, maintain policies providing the following insurance protection, which insurance shall apply to all operations of the Contractor hereunder and employees of the Contractor engaged therein. Unless waived in writing by BSA's PPM Division, the Contractor shall also provide an endorsement to its liability policies either (i) naming Brookhaven Science Associates, LLC and the U.S. Government as additional insureds or (ii) insuring the Contractor's obligations under the paragraph hereof entitled "Independent Contractor; Hold Harmless."
 - (1) *Worker's Compensation* – Coverage as provided in the Worker's Compensation Law of the State having jurisdiction, including occupational disease coverage for limits of \$1,000,000 per person in any one case and additional Employees Liability of \$1,000,000 per occurrence.
 - (2) *General Liability* – Insurance with limits of \$1,000,000/\$2,000,000 for bodily injury liability and \$100,000 for property damage liability in the comprehensive liability form.
 - (3) *Automobile Liability* – Insurance with limits of \$250,000/500,000 for bodily injury liability and \$50,000 for property damage liability in the comprehensive policy form.
- (b) The Contractor may purchase such additional or other insurance protection, as it may deem necessary, at its own expense.
- (c) The Contractor shall furnish BSA's PPM Division a certificate of insurance to show compliance with paragraph (a) above. The insurance certificate shall be submitted within fourteen (14) days of award and prior to issuance of a Notice to Proceed. The Contractor shall also ensure that such certificate states that the insurance carrier(s) will give BSA 30 days, prior written notice if there is any cancellation or material change in such policies. The Contractor shall also ensure that such certificates are kept up to date during the period of contract performance.

Article 14. Contractor's Responsibilities

The Contractor is responsible for all damages to persons or property that occurs, as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work, which may have been accepted under this Agreement. The Contractor's responsibility shall apply to activities of the Contractor, its agents, lower-tier subcontractors, and employees.

Article 15. Superintendence by the Contractor

At all times during performance of this Agreement and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent from its organization who is satisfactory to BSA and has authority to act for the Contractor.

Article 16. Suspect/Counterfeit Items

"Suspect Items" are items, for which there is an indication by visual inspection, testing, or other information that it may not conform to established Government- or industry-accepted specifications or national consensus standards. "Counterfeit Items" are suspect items that are a copy or substitute without legal authority to do so or whose material, performance, or characteristics are knowingly misrepresented by the supplier, distributor, or manufacturer. Forms of misrepresentation include, but are not limited to, the following:

- falsified product sources (counterfeits);
- falsified or modified quality assurance records;
- false marking as to class, type, or grade;
- mixing of unmarked materials with marked materials;
- false labeling as to qualification or acceptance by testing/certifying organizations; and used and/or refurbished products, misrepresented as new products.

Types of materials, parts, and components, known to have been misrepresented include, but are not limited to:

- lifting materials such as slings, hooks, cables, and shackles;
- threaded fasteners fraudulently marked as high-strength bolts;
- refurbished electrical circuit breakers sold under false certifications;
- valves;
- piping and piping components;
- electrical devices;
- channel members, plate, bar, and flanges;
- and other structural items.

See the Exhibits in the BNL Suspect / Counterfeit Items Subject Area, https://sbms.bnl.gov/sbmsearch/subjarea/72/72_SA.cfm?parentID=72 for more information on identifying suspect/counterfeit items. S/CI's may pose immediate and potential threats to the safety of BSA and contractor workers, the public, and the environment. Failure of a safety or mission critical system due to an S/CI could also have security implications at DOE facilities.

- Items furnished to BSA under this Agreement shall not include suspect/counterfeit parts nor shall such parts be used in performing any work under this Agreement whether on or off the Laboratory site.
- If suspect/counterfeit parts are furnished under this Agreement and are found on the Laboratory site, such parts shall be impounded by BSA or they shall be removed by the Contractor as directed by BSA. The Contractor shall promptly replace such parts with supplies acceptable to BSA and the Contractor shall be liable for all costs relating to impoundment, removal, and replacement. BSA may turn such parts over to the U.S. Office of the Inspector General for investigation and reserves the right to withhold payment pending the outcome of any investigation.
- The rights of BSA in this clause are in addition to any other rights provided by law or under this Agreement.

Article 17. Labor Standards.

The following provisions apply to work performed under this Agreement as if they were set forth herein in their entirety. For more information on clauses incorporated by reference see the Article entitled *Clauses Incorporated by Reference*.

<i>Clause</i>	<i>FAR Reference</i>
Davis-Bacon Act	52.222-6
Withholding of Funds	52.222-7
Payrolls and Basic Records	52.222-8
Apprentices and Trainees	52.222-9
Compliance with Copeland Act Requirements	52.222-10
Subcontracts (Labor Standards)	52.222-11
Contract Termination – Debarment	52.222-12
Compliance with Davis-Bacon and Related Act Regulations	52.222-13
Disputes Concerning Labor Standards	52.222-14
Certification of Eligibility	52.222-15
Notice of Requirement for Affirmative Action to Ensure Equal Employment	52.222-23
Opportunity for Construction (applicable to agreements > \$10,000)*	
Affirmative Action Compliance Requirements for Construction (applicable to agreements > \$10,000)	52.222-27

*For purposes of the Notice, the “covered area” is Suffolk County, New York. The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area (5380 Nassau-Suffolk, New York), are as follows:

Goals for Minority Participation for Each Trade	5.8%
Goals for Female Participation for Each Trade	6.9%

These goals are applicable to all of the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

Article 18. Notice Regarding Labor Disputes

- (a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Agreement, the Contractor shall immediately give notice, including all relevant information, to BSA's PPM Division.
- (b) The Contractor agrees to insert the substance of this clause, including this paragraph (b) in any subcontract hereunder, except that each subcontract shall provide that required notice be given to the next higher tier subcontractor, or the Contractor, as the case may be of all relevant information with respect to such dispute(s).

Article 19. Notice Regarding Late Performance

If the Contractor encounters difficulty in meeting performance requirements, or anticipates difficulty in complying with the delivery schedule or date, the Contractor shall immediately notify BSA's PPM Division in writing, giving pertinent details, including the date by which it expects to complete performance or make delivery. This data shall be informational only, and BSA's receipt of this notice shall not be construed as a waiver of any schedule or date, or any rights or remedies provided by law or under this Agreement.

Article 20. Payment

- (a) Within fourteen (14) days after award, the Contractor shall submit a Schedule of Values broken down as required in the Supplementary Conditions of the Specifications, which will provide a basis for determining progress payments. The Schedule of Values will be subject to BSA's approval.
- (b) BSA will make progress payments against the contract price on a monthly basis, or at more frequent intervals as determined by BSA's PPM Division, as the work proceeds. If BSA disagrees with the percentage complete of any item included in an invoice, it shall confer with the Contractor, but if

agreement cannot be reached BSA shall authorize payment as it determines is appropriate and the Contractor may submit a Claim for the difference in accordance with the Disputes Article. Each application for payment shall be accompanied by the following signed certification:

"The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief, the work covered by this application for payment has been completed in accordance with the Contract Documents, and that all work for which previous payments have been received is free and clear of liens, claims, security interests or encumbrances of any kind. The Contractor further warrants that title to all work covered by this application for payment will pass to the Government no later than the time of payment."

- (c) In making such progress payments, BSA shall retain 10% of the estimated amount until final completion and acceptance of the work. However, if BSA's PPM Division determines that the Contractor has achieved satisfactory progress during any period for which a progress payment is to be made, BSA's PPM Division may authorize such payment to be made either with a reduced retention or in full without retention. Also, when the work is substantially complete, BSA shall retain an amount it considers adequate to protect BSA and the Government, and at its discretion, may release all or a portion of any excess amount to the Contractor. Furthermore, on completion and acceptance of each separate building or other division of the contract on which this agreement states a separate price, payment may be made therefore without retention of a percentage.
- (d) All equipment, material and work covered by progress payments made shall thereupon become the sole property of the Government, but this shall not be construed as: (1) relieving the Contractor from the sole responsibility for all equipment, material and work upon which payments have been made or the restoration of any damaged work, or (2) waiving BSA's rights to require fulfillment of all this Agreement's terms.
- (e) If performance and/or payment bonds are required under this Agreement, BSA shall reimburse the Contractor the total premiums paid to obtain the bonds. This reimbursement shall be made at one time together with the first progress payment otherwise due after the Contractor has –
 - (1) furnished the bonds (including the coinsurance and reinsurance agreements, when applicable),
 - (2) furnished evidence of full payment to the surety company, and,
 - (3) submitted a request for such payment.
- (f) BSA's reimbursement of the bond premiums shall not be made as increments of the individual progress payments and shall not be in addition to the contract price.
- (g) On completion and acceptance of all work hereunder and presentation of a properly executed invoice, BSA shall pay the Contractor the Contract Price, less progress payments made provided the Contractor shall have first furnished BSA a Release of Liens from all subcontractors, together with a release by the Contractor of all claims against BSA and the Government arising by virtue of this Agreement, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under this Agreement has been assigned to a bank, trust company, or other institution, including a Federal lending institution, a release may also be required of the assignee. BSA may withhold from any final payment the amount of any Claim it has against the Contractor arising out of the contract work, provided it has first given the Contractor notice of the Claim and the amount for which BSA believes the Contractor is liable.

Article 21. Taxes

This Agreement's price includes all applicable Federal, State and local taxes and duties. In determining the applicability of any tax or duty, due consideration shall be given to the relationship of the subject matter of this Agreement to the Government, and the fact that BSA is exempt from New York State and local sales and use taxes under Exempt Organization Certificate No. EX-216880.

Article 22. Changes

- (a) At any time, without notice to the sureties, BSA may, by written notice designated as a change order, make changes within the general scope of this Agreement, including but not limited to changes: (1) in the specifications (including drawings and designs), (2) in the method and/or manner of performance, (3) in the Government-furnished facilities, equipment, materials, services, or site; or (4) directing acceleration in performance.
- (b) BSA's inspectors and project coordinators may issue field change orders up to \$5,000. Such change orders must be in writing and signed by the authorized inspector or project coordinator and the Contractor. All field change orders must be incorporated into this Agreement by a formal amendment prior to contract completion.

- (c) Except any herein provided, no order, statement, or conduct of BSA's Technical Representative shall be treated as a change under this article or entitle the Contractor to an equitable adjustment hereunder. If the Contractor considers that any direction or instruction by BSA's technical personnel constitutes a change other than an authorized field change order as described in Paragraph (b) above, the Contractor shall not rely on such direction or instruction without obtaining written confirmation from BSA's PPM Division.
- (d) If any properly authorized change causes a difference in the cost or the time required for performance, BSA shall make an equitable adjustment in the price and/or delivery schedule and other affected provisions. Such adjustment shall be made by written amendment to this Agreement signed by both parties. The Contractor must assert any claim for adjustment within 30 days from the date it receives BSA's change notice; however, BSA may, in its sole discretion, receive and act on any claim for adjustment at any time before final payment. Failure to agree to any adjustment shall be settled in accordance with the *Disputes* article of these General Terms and Conditions. Nothing in this clause, including any disagreement with BSA about the equitable adjustment, shall excuse the Contractor from proceeding with work hereunder, as changed.
- (e) When costs are a factor in any determination of a price adjustment pursuant to this clause or any provision of this Agreement, such cost shall be in accordance with the cost principles and procedures in FAR Subpart 31 and DEAR Subpart 931.

Article 23. Notification of Claims and Documentation

- (a) A Claim is a written demand by one party for an interpretation of terms, adjustment to the contract price or adjustment to the time in which to perform the Contract. A Claim may arise from, without limitation, issues concerning the acceptability of work, progress of work, differing site conditions, ambiguities or defects in the Contract Documents and whether work the Contractor is performing is included in this Agreement. The Contractor shall give BSA's Contractual Representative written notice no later than 5 days prior to beginning any work that it believes constitutes a change to the work required by or time in which to perform this Agreement; and expressly waives the right to make any Claim pertaining thereto if it fails to give this required notice. Unless a provision of this Agreement expressly provides for more or less time, the Contractor shall give BSA notice of all other Claims within 14 days of the time the condition giving rise to the Claim first becomes known to the Contractor. A Claim is known to the Contractor provided it is known to the project superintendent or any foreman reporting to the superintendent. The Contractor shall include the requirements of this clause in all subcontracts and purchase orders and BSA shall not be liable for any Claim of any subcontractor or supplier that has failed to comply with this notification provision.
- (b) A Claim shall provide complete documentation, including:
 - (1) the Contractor's certification, by its owner or an officer, under penalty of perjury, that (i) the Claim is made in good faith, (ii) supporting data are accurate and complete to the best of the Contractor's and subcontractor's (if applicable) knowledge and belief, and (iii) the amount requested accurately reflects the Contract adjustment for which the Contractor believes the Owner is liable;
 - (2) full disclosure of facts and detailed reasons supporting the Claim with citations to relevant provisions in the Contract Documents; and
 - (3) complete documented cost of doing the work for which the Claim is being made
- (c) BSA will make a final decision on all Claims prior to the date of final payment. BSA's decision will be in writing, will be consistent with the intent of the Contract Documents and will cite the basis on which it is made. BSA's decision is a condition precedent to proceeding in the manner set forth in the *Disputes* Article. BSA's decision shall be final and binding on the Contractor unless the Contractor, within 30 days following receipt of BSA's decision, notifies BSA's PPM in writing that it intends to proceed under the *Disputes* Article. Failure to provide such notice shall constitute a waiver of the Claim(s), and the Contractor shall thereafter indemnify and hold harmless BSA from any and all liability arising out of or relating to such Claim(s).

Article 24. Determining Costs of Changes

An equitable adjustment shall be determined as follows:

- (a) Unit Prices. To the extent additions to or deletions from the contract work are subject to unit prices agreed upon in this Agreement, those unit prices shall be applied in determining the equitable adjustment and the Contractor shall not be entitled to any other costs or profit.
- (b) Allowable costs shall be limited to costs of direct labor, including foreman engaged in the work but not the Superintendent or other field personnel; costs of materials, supplies and equipment, exclusive of portable or hand tools; costs of premiums for bonds and insurance; the increased or decreased costs of field overhead,

including superintendence, but only if the change affects the Contractor's critical path of construction activities; the costs of any tiered subcontractor's work computed in accordance with this Article, provided that the markup charged by the Contractor and its subcontractors for home office overhead and profit shall be subject to negotiation but in no event shall it exceed 15 percent of the direct costs of the work performed and 5 percent for work performed by subcontractors at lower tiers. When both additions and deletions are related and pertain to the same work item, the mark-up for overhead and profit shall be computed on the net increase or decrease.

Article 25. Extras

Except as otherwise provided in this Agreement, BSA shall not pay for extras unless such extras and the price for them, have been authorized in writing by BSA's PPM Division.

Article 26. Material and Workmanship

- (a) All equipment, material, and articles incorporated into the work covered by this Agreement shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this Agreement. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may use any equipment, material, article, or process that, in BSA's judgment, is equal to that named in the specifications, unless otherwise specifically provided in this Agreement. Unless otherwise agreed, modifications due to use of "or equal" supplies are at the Contractor's expense. If required by BSA, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment furnished under this Agreement.
- (b) The Contractor shall obtain BSA's approval of the machinery and mechanical and other equipment to be incorporated into the work. When required by this Agreement or by BSA, the Contractor shall also obtain BSA's approval of the material or articles which the Contractor contemplates incorporating into the work. When so directed, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.
- (c) The Contractor shall be responsible to BSA and each of its officers, employees, agents and consultants for the acts and omissions of the Contractor's employees, subcontractors and their agents and employees, and other persons performing portions of the work under a contract with the Contractor.
- (d) All work under this Agreement shall be performed in a skillful and workmanlike manner. BSA may require, in writing, that the Contractor remove, from the work any employee BSA deems incompetent, careless, or otherwise objectionable.

Article 27. Subcontractors

- (a) BSA reserves the right to approve or disapprove Subcontractors without change in the contract price. No later than two (2) weeks after signing this Agreement, the Contractor shall submit directly to BSA's technical representative, a complete list of proposed Subcontractors for approval.
- (b) Agreements between the Contractor and subcontractors and suppliers shall: (1) include all terms and conditions, to include any insurance requirements, that the Contractor is required to flow down to its subcontractors and suppliers by the terms of these Contract Documents; and (2) at BSA's option, provide for the assignment of subcontracts to BSA in the event of termination of this Agreement.

Article 28. Inspection of Construction

- (a) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed hereunder conforms to the contract requirements. The Contractor shall maintain complete inspection and test records and make them available to BSA. All work shall be conducted under the general direction of BSA and is subject to BSA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with this Agreement's terms.
- (b) BSA inspections and tests are for its sole benefit and do not relieve the Contractor of responsibility for providing adequate quality control measures, relieve the Contractor of responsibility for damage to or loss of the material before acceptance, constitute or imply acceptance, or affect BSA's continuing rights after acceptance of the completed work.
- (c) The presence or absence of a BSA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the written authorization of BSA's PPM Division, except as permitted under the *Changes Article*, paragraph (b).
- (d) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by

BSA. BSA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. BSA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in this Agreement.

- (e) The Contractor shall, without charge, replace or correct work BSA finds does not conform with this Agreement's requirements, unless in its own or the Government's best interest BSA consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (f) If the Contractor does not promptly replace or correct rejected work, BSA may replace or correct the work and charge the cost to the Contractor, or terminate this Agreement for default.
- (g) If, before acceptance of the entire work, BSA decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, BSA shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (h) Unless otherwise specified in this Agreement, BSA shall accept or reject, as promptly as practicable after completion and inspection, all work required by this Agreement or that portion of the work BSA determines can be accepted separately.

Article 29. Warranty of Construction

- (a) In addition to any other warranties in this Agreement, the Contractor warrants, except as provided in paragraph (h) of this article, that work performed under this Agreement conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.
- (b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If BSA takes beneficial occupancy of any part of the work before acceptance, this warranty shall continue for a period of 1 year from the date BSA takes possession through beneficial occupancy.
- (c) The Contractor shall remedy any failure to conform, or any defect at its own expense. In addition, the Contractor shall remedy any damage to Government-owned or BSA-controlled real or personal property at the Contractor's expense, when that damage is the result of the Contractor's failure to conform to contract requirements, or any defect of equipment, material, workmanship, or design furnished by the Contractor.
- (d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.
- (e) BSA shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- (f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, BSA shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this Agreement, the Contractor shall--
 - (1) obtain all warranties that would be given in normal commercial practice;
 - (2) require all warranties to be executed, in writing, for the benefit of BSA, as directed; and
 - (3) enforce all warranties for BSA's benefit, as directed.
- (h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Contractor agrees to subrogate any of its rights and to aid BSA in enforcing lower-tier subcontractor's, manufacturer's, or supplier's warranties.
- (i) BSA's rights and remedies under this article are in addition to any other rights and remedies provided by law or under this Agreement.

Article 30. Existing Conditions

- (a) The Contractor represents that its representatives have visited the site and become familiar with existing and local conditions, which may affect the work and has included all costs associated therewith in its Bid.
- (b) If information on subsurface soil conditions was obtained for design purposes, the Contractor may rely on the boring logs as a representation of soils that existed at the location of the boring at the time the borings

were made, but may not rely on the interpretations or opinions contained in the report nor on the completeness of adequacy of the information for the Contractor's construction purposes.

- (c) The Contractor shall be responsible for:
- (1) verifying the existence and location of all utilities and underground facilities, including the use of potholing, hand excavations and hand demolitions;
 - (2) coordinating work with BSA's Modernization Project Office;
 - (3) protection of concealed and underground utilities and underground facilities from damage;
 - (4) the repair or replacement of utilities or underground facilities damaged by the Contractor's failure to exercise reasonable care; and
 - (5) damage to others due to loss of utility service resulting from the Contractor's operations.

Article 31. Differing Site Conditions

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to BSA of: (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this Agreement, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this agreement.
- (b) BSA shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this Agreement, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and this Agreement modified in writing accordingly.
- (c) No Claim by the Contractor for an equitable adjustment under this Article shall be allowed unless the Contractor has given the written notice required by this Article and otherwise complied with the Notification of Claims and Documentation Article.

Article 32. Suspension of Work

- (a) At any time, BSA's PPM Division may, by written notice to the Contractor, require the Contractor to suspend, delay or interrupt all or any portion of the work hereunder for such period as BSA determines appropriate. On receipt of such notice, the Contractor shall immediately comply with its provisions and take all reasonable steps to minimize the incurrence of costs associated with such suspension as directed by BSA's PPM Division.
- (b) If BSA suspends, delays or interrupts performance of all or any part of the work hereunder for an unreasonable period of time, an adjustment shall be made for any increase in the cost of performance of this Agreement (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption, and this Agreement will be modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent –
- (1) that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or
 - (2) for which an equitable adjustment is provided for or excluded under any other provision of this Agreement.
- (c) As full compensation for such unreasonable delay, the Contractor shall be reimbursed reasonable and allowable actual costs, without duplication, to the extent the cost resulted solely and directly from the unreasonable period of the suspension. Claim for such reimbursement shall be submitted within 14 calendar days after the suspension is terminated. A claim under this article shall not be allowed unless the claim, in an amount stated, is submitted timely.

Article 33. Time for Performance and Delays

- (a) This project is to be considered as one where "time is of the essence". The contract completion date shall be adhered to. An unexcused failure to be "substantially complete" by the completion date could lead to disqualification from future projects.
- (b) Definition of Terms
- (1) *Contract Time* is the period of time including authorized adjustments allowed for completion of the work and is measured from the date of contract award to the date of final completion.
 - (2) *Day* is a calendar day beginning and ending at midnight.
 - (3) *Unusual Weather* is defined as when either the number of Wet Days or the number of Freezing Days exceeds the most recently published mean number of Wet or Freezing Days for the period of record, for the same month and for the weather observing station closest to the project site as reported in "Comparative Climatic Data" published by the National Oceanic and Atmospheric Administration. "Wet Days" are defined as days that have at least 0.01 inch of rainfall unless

modified elsewhere in this Agreement. "Freezing Days" are defined as days with a minimum temperature of 32 degrees F or lower.

- (4) *Excusable Delay* means unforeseeable delay beyond the Contractor or BSA's control and not resulting from Contractor's fault or negligence. Excusable Delay includes labor disputes, fire, Unusual Weather, unavoidable casualties and unusual delays in transportation.
- (c) *Computation of Time.* Any period of time referred to in the Contract Documents measured in days shall mean consecutive calendar days and shall exclude the first and include the last day. If the last day falls on a Saturday, Sunday or legal holiday, it shall be omitted from the calculation.
- (d) *Contract Time.* The Contractor confirms that the Contract Time is a reasonable period for performing the Work and includes enough float time to allow for normal unfavorable weather and other reasonably anticipated delays.
- (e) *Damages for Late Completion.* BSA reserves the right to assess the Contractor for actual damages suffered by BSA as a result of completion after the Contract Time. These damages may include, but are not limited to, BSA's cost for inspection and project management for the period beyond the contract completion date.
- (f) *Commencing Work.* The Contractor shall not commence work (1) prior to the date in the Notice to Proceed, (2) prior to giving BSA's technical representative 5 days written notice.
- (g) *Accelerated Work If Required to Meet Schedule.* The Contractor shall proceed expeditiously with adequate forces and shall achieve Final Completion within the Contract Time. If the Contractor's performance falls behind schedule, the Contractor shall accelerate the work as required to get back on schedule at no additional cost to BSA. Accelerated work shall include air or express delivery of materials and equipment, increasing the number of workers, working overtime, working Saturdays, Sundays, and holidays and working additional shifts. The Contractor shall pay BSA for any extra costs of inspection made necessary by accelerated work required under this provision.
- (h) *Excusable Delays.* The Contractor shall be entitled to an extension of Contract Time due to an Excusable Delay if it can show that the Excusable Delay is the sole and unavoidable cause increasing the time actually needed to complete the Work. The Contractor shall not be entitled to an increase in Contract Price due to an Excusable Delay.
- (i) *Compensable Delays.* The Contractor shall be entitled to an extension of Contract Time and an adjustment in Contract Price in accordance with the Determining of Costs of Changes Article due to unreasonable delays that are not due to the fault or neglect of the Contractor and which could not have been reasonably anticipated, including delays: (1) caused by BSA or by BSA's separate contractors or workers, (2) resulting from BSA's failure to provide access to lands or rights-of-way on which the Work is to be performed, or (3) due to suspension of the work ordered by BSA. In making such a Claim, the contractor must demonstrate that the delay was the sole and unavoidable cause for increasing the length of time required to complete the Work. For purposes of settlement of Claims under this paragraph, no mark-up for profit will be allowed.

Article 34. Disputes

- (a) **Good Faith Negotiation.** The parties agree that they will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either party may initiate negotiations by providing written notice in letterform to the other party, setting forth the subject of the dispute and the relief requested. The recipient of such notice agrees to respond in writing within five days with a statement of its position on and recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority will meet at a mutually agreeable time and place within fifteen days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute. If the dispute is not resolved by these negotiations, the matter will be submitted to JAMS, or its successor, for mediation, following the procedure described in subparagraph (b), below. Pending settlement or a final judgment, the Contractor will proceed diligently with performance of this Agreement according to the instructions of BSA's contractual representative.
- (b) **Mediation.** Except as provided in this Agreement, the parties agree that neither will commence any civil action with respect to any dispute, claim or controversy arising out of or relating to this Agreement until the matter has been submitted to JAMS (45 Broadway, 28th Floor, New York, NY 10006, 212-751-2700), or its successor, for mediation and that process has been completed. Either party, may commence mediation by providing to JAMS and, the other party, a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties agree to cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in

its costs. The parties further agree that they will treat as confidential all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation, by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees. The parties also agree that they will treat any such communications as privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire. The provisions of this Article may be enforced by any Court of competent jurisdiction, and the party seeking enforcement will be entitled to an award of all costs, fees and expenses, including attorneys fees, to be paid by the party against whom enforcement is ordered.

- (c) **Waiver of Right to Litigate in Court Before Completing Negotiation and Mediation and Waiver of Right to Jury Trial and Designation of Court Sitting in the State of New York.** The Contractor agrees to submit all disputes, claims or controversies arising out of or relating to this Agreement to negotiation and then mediation as described above before bringing any action in court. The contractor further acknowledges that, in the event it brings any such action in court, that it will bring that action in a court sitting in the State of New York, and it further acknowledges that it is hereby waiving any right that it might possess to demand a jury trial for the litigation of that action. The contractor further acknowledges that it is giving up any rights to judicial remedies and procedures to the extent that this Agreement does not specifically provide for them. The contractor further acknowledges that its agreement to this provision for this contract is voluntary.

Article 35. Applicable Law

The parties agree that the Federal common law of government contracts will govern the construction and interpretation of this Agreement and all claims arising under or related to this Agreement or work performed under this Agreement or claims of breach of this Agreement, regardless of the forum in which any party to this Agreement brings action. For purposes of this Agreement, the Federal common law of government contracts will consist of the interpretation of contract clauses and the law enunciated and applied to government contracts by the Boards of Contract Appeals, the Comptroller General (CG), and Federal Courts having jurisdiction over the Boards or the CG. The term "Board of Contract Appeals" means those established under the Contract Disputes Act of 1978, 41 U.S.C. 607(a)(1), and their successor bodies.

Article 36. Termination for Default

- (a) BSA may terminate this Agreement for default, in whole or in part, if the Contractor: (1) fails to supply enough properly skilled workers or materials so as to endanger timely performance; (2) abandons or unreasonably delays performance; (3) fails to comply with laws, safety or environmental regulations, ordinances or BSA instruction; (4) fails to comply with any substantive requirement of this Agreement; (5) fails to make payment to subcontractors or material suppliers; (6) becomes insolvent, commences any form of voluntary bankruptcy proceeding, has any petition or action filed against it under any bankruptcy code or law, makes a general assignment for the benefit of creditors, or if a trustee, receiver or agent is appointed under law to take charge of Contractor's property or operations for the benefit of creditors; (7) fails to retain a valid Contractor's license of the required class, or (8) otherwise commits a material breach of this Agreement. In this event, BSA shall not be liable for any services or supplies not accepted.
- (b) When any of the above reasons exist, and without prejudice to any other rights BSA may have, and after giving the Contractor and the Contractor's surety seven (7) days written notice, BSA may terminate the employment of the Contractor and, subject to any prior rights of the surety, BSA may: (1) take possession and use any materials, tools, equipment and the construction facilities and premises owned by the Contractor; (2) accept assignment of subcontracts pursuant to the Subcontractors Article and finish the work by whatever method BSA deems expedient.
- (c) If BSA terminates this Agreement for cause, the Contractor shall not be entitled to further payment until the work has been completed.
- (d) If the cost of completing the work, including additional engineering services, attorney's fees and administrative expenses made necessary thereby, exceeds the unpaid contract price, the Contractor shall pay the difference to BSA. This obligation for payment shall be binding after termination of this Agreement. If the cost of completing the work, including costs for engineering, legal, and administrative

expenses is less than the unpaid contract price, the difference shall be paid to the Contractor to the extent that such payment was due the Contractor for completed work at the time of termination.

- (e) BSA's rights and remedies under this Article are in addition to any other rights and remedies provided by law or under this Agreement.

Article 37. Termination for Convenience

- (a) BSA reserves the right to terminate this Agreement, or any part hereof, for its convenience or that of the Government by delivering a written Notice of Termination specifying the extent of the termination and its effective date. The Contractor shall immediately stop all work so terminated and shall immediately cause any and all of its affected suppliers and subcontractors to cease work and take any action that may be necessary, or that BSA directs, to protect the property related to this Agreement.
- (b) After termination, the Contractor shall submit a final termination settlement proposal to BSA in the form and with the certification prescribed by BSA. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by BSA on the Contractor's written request within this 1-year period. If the Contractor fails to submit the proposal within the time allowed, BSA may determine, on the basis of information available, the amount, if any, due the contractor as a result of the termination and shall pay the amount determined.
- (c) Subject to the terms of this Agreement, the Contractor shall be paid a percentage of the price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to BSA's satisfaction, have resulted from the termination. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided. The Contractor and BSA may agree on the amount to be paid because of the termination; however, the agreed amount may not exceed the contract price.
- (d) BSA shall exclude from the amounts payable to the contractor the fair value, as determined by BSA, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable.
- (e) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation (FAR) as modified by Part 931 of the Department of Energy Acquisition Regulation (DEAR), in effect on the date of this Agreement, shall govern all costs claimed.
- (f) Unless otherwise agreed or required by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this Agreement for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this Agreement. The Contractor shall make these records and documents available to BSA and the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by BSA, authentic reproductions may be maintained instead of original records and documents.

Article 38. Whistleblower Protection for Contractor Employees

- (a) The Contractor shall comply with the requirements of the *DOE Contractor Employee Protection Program* at 10 CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE owned or leased sites.
- (b) The Contractor shall insert or have inserted the substance of this clause, including this paragraph (b) in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE owned or leased sites.

Article 39. Bankruptcy

If the Contractor enters into any proceeding relating to bankruptcy, it shall give written notice to BSA's PPM Division via certified mail within 5 days of initiating the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing, by BSA contract number, of all BSA contracts for which final payment has not been made.

Article 40. No Waiver

BSA's failure to enforce any of the provisions of this Agreement shall not be construed as evidence to interpret the requirements of this Agreement, nor a waiver of any requirement, nor a waiver of BSA's right to enforce each and every provision. All rights and obligations of the parties shall survive final performance of this Agreement.

Article 41. Patent Indemnity – Subcontracts

The Contractor shall indemnify BSA and the Government and their officers, agents, and employees against liability, including costs, for infringement of U.S. Letters Patent (except Letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) for any work the Contractor performs under this Agreement.

Article 42. Clauses Incorporated by Reference

This Agreement incorporates the following Federal Acquisition Regulation (FAR) and Dept of Energy Acquisition Regulation (DEAR) clauses by reference, as they exist on the effective date of this Agreement, with the same force and effect as if they were in full text. The FAR clauses are available through the General Services Administration (GSA) at <http://www.arnet.gov/far/>, and the DEAR clauses are available at <http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation>, or they may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. Whenever necessary to make the context of the clauses applicable to this Agreement, the term "Contractor" shall mean the Contractor, the term "Contract" shall mean this Agreement, and where noted or where necessary to derive proper meaning in a subcontract situation the terms "DOE", "Government" and "Contracting Officer" shall mean BSA, except the terms "DOE", "Government" and "Contracting Officer" do not change: (1) in the phrases "Government Property", "Government-Furnished Property", "Government Equipment" and "Government-Owned Equipment", or where otherwise intended that title ownership or rights are to remain with the Government; or (2) where statute or regulation vests authority exclusively in specific agencies or officials; or (3) where otherwise specifically modified in this Agreement. However, except in clauses FAR 52.227-1, "Authorization and Consent" and "Alternate I; FAR 52.227-2, "Notice and Assistance Regarding Patent and Copyright Infringement, FAR 52.227-14, "Rights in Data-General", FAR 52.227-16, "Additional Data Requirements, FAR 52.227-17, "Rights in Data-Special Works", FAR 52.227-23, "Rights to Proposal Data" (Technical), DEAR 952.227-11, "Patent Rights Retention by the Contractor" (short form), DEAR 952.227-13, "Patent Rights Acquisition by the Government", and DEAR 970.5227-1, "Rights in Data-Facilities, in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE Contracting Officer for Prime Contract DE-AC02-98CH10886 with Brookhaven Science Associates, LLC., (BSA).

Article	Title of Clause	FAR/DEAR Ref.
Article 42.1	Covenant Against Contingent Fees	52.203-5
Article 42.2	Anti-Kickback Procedures (except subparagraph (c)(1))	52.203-7
Article 42.3	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	52.209-6
Article 42.4	Utilization of Small Business Concerns	52.219-8
Article 42.5	Prohibition of Segregated Facilities	52.222-21
Article 42.6	Equal Opportunity	52.222-26
Article 42.7	Affirmative Action for Workers with Disabilities (agreements >\$10,000)	52.222-36
Article 42.8	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans (applicable to agreements of \$25,000 or more)	52.222-37
Article 42.9	Energy Efficiency in Energy-Consuming Products	52.223-15
Article 42.10	Combating Trafficking in Persons	52.222-50
Article 42.11	Buy American Act – Construction Materials	52.225-9
Article 42.12	Restrictions on Certain Foreign Purchases	52.225-13
Article 42.13	Rights in Data-General, with Alternate V and DEAR 927.409(a) and (d)(3). (Alternate II is applicable if limited rights in data is required. Alternate III is applicable if delivery is for restricted computer software).	52.227-14
Article 42.14	Additional Data Requirements	52.227-16
Article 42.15	Rights to Proposal Data (Technical)	52.227-23
Article 42.16	Site Investigation and Conditions Affecting the Work	52.236-03
Article 42.17	Other Contracts	52.236-08
Article 42.18	Use and Possession Prior to Completion	52.236-11
Article 42.19	Specifications and Drawings for Construction	52.236-21
Article 42.20	Subcontracts for Commercial Items and Commercial Components	52.244-6
Article 42.21	Government-Property (Short Form) (applicable when acquisition cost of all GFP is < \$100,000)	52.245-1
Article 42.22	Sensitive Foreign Nations Control	952.204-71
Article 42.23	Patent Rights Retention by the Seller (Applicable to experimental, research & development, demonstration or design work)	952.227-11
Article 42.24	Patent Rights Acquisition by the Government (Applicable to experimental, research & development, demonstration or design work)	952.227-13

Article	Title of Clause	FAR/DEAR Ref.
Article 42.25	Refund of Royalties	970.5227-8
Article 42.26	Accounts, Records and Inspection	970.5232-3

The following clauses are applicable to agreements over \$100,000:

Article 42.27	Restrictions on Subcontractor Sales to the Government	52.203-6
Article 42.28	Limitation on Payments to Influence Certain Federal Transactions	52.203-12
Article 42.29	Contract Work Hours and Safety Standards Act – Overtime Compensation	52.222-4
Article 42.30	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	52.222-35
Article 42.31	Notification of Employee Rights Concerning Payment of Union Dues or Fees	52.222-39
Article 42.32	Toxic Chemical Release Reporting	52.223-14
Article 42.33	Authorization and Consent (For Research and Development, Demonstration or Design work add Alternate I)	52.227-1
Article 42.34	Notice and Assistance Regarding Patent and Copyright Infringement	970.5227-2

This following clause is applicable to Agreements over \$500,000:

Article 42.35	Contractor Code of Business Ethics and Conduct (applicable to agreements that exceed \$5,000,000)	52.203-13
Article 42.36	Display of Hotline Poster(s) (applicable to agreements that exceed \$5,000,000)	52.203-14
Article 42.37	Displaced Employee Hiring Preference	952.226-74
Article 42.38	Workforce Restructuring Under Section 3161 Of The National Defense Authorization Act For Fiscal Year 1993	970.5226-2

The following clauses apply if checked:

<input checked="" type="checkbox"/>	Article 42.39	Price Reduction for Defective Cost or Pricing Data – Modifications	52.215-11
<input checked="" type="checkbox"/>	Article 42.40	Subcontractor Cost or Pricing Data – Modifications	52.215-13
<input type="checkbox"/>	Article 42.41	Small Business Subcontracting Plan	52.219-9
<input type="checkbox"/>	Article 42.42	Liquidated Damages – Subcontracting Plan	52.219-16
<input type="checkbox"/>	Article 42.43	Rights in Data-Special Works	52.227-17
<input type="checkbox"/>	Article 42.44	Government Property (cost reimbursement, time & materials and labor hour agreements)	52.245-2
<input type="checkbox"/>	Article 42.45	Security	952.204-2
<input type="checkbox"/>	Article 42.46	Rights in Data-Facilities	970.5227-1
<input checked="" type="checkbox"/>	Article 42.47	Workplace Substance Abuse Programs at DOE Sites	970.5223-4

Article 43. Compliance with 10 CFR 851 and Brookhaven Science Associates' Worker Safety and Health Program by Integration of Environment, Safety and Health into Work Planning and Execution.

- (a) In performing work under this Contract, the Contractor and all of its lower-tier subcontractors at all levels shall comply with all applicable federal, state and local environment, safety and health laws and regulations. The Contractor and all of its lower-tier subcontractors at all levels must comply with 10 CFR 851 Worker Safety and Health Program, BSA's Worker Safety and Health Program, and DEAR 970.5223-1, Integration of ES&H into Work Planning and Execution (Dec. 2000). Compliance with 10 CFR 851 and DEAR 970.5223-1 is to be guided by following paragraphs (b) through (e) set forth below.
- (b) The Contractor shall perform work safely, in a manner ensuring adequate protection for employees, the public, and the environment and will be held accountable for the safe performance of work. The Contractor will exercise a degree of care commensurate with the work and the associated hazards. The Contractor will ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral and visible part of the Contractor's work planning and execution process. The Contractor will, in the performance of work, ensure that:
 - (1) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities, and will retain records respecting such competency and qualifications, making them available upon request.
 - (2) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public and the environment is a priority whenever activities are planned and performed.

- (3) Prior to work performance, the associated hazards will be evaluated and a set of ES&H standards and requirements will be established and implemented to provide assurance that employees, the public, and the environment are protected from adverse consequences.
- (4) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis will be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.
- (5) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those contractor and subcontractor employees managing or supervising employees performing work.
- (6) Clear and unambiguous lines of authority and responsibility for ensuring ES&H compliance will be established and maintained at all organizational levels.
- (c) The Contractor, relative to the Statement of Work and contract specifications, agrees to accept BSA's DOE-approved Worker Safety and Health Program and the Integrated Safety Management Program as its own, and perform and manage work in accordance with such program. The Contractor shall demonstrate through documentation and work practices that performance of work under this contract:
 - (1) fulfills the scope of work set out in the contract;
 - (2) identifies and analyzed specific, task-level hazards associated with the work;
 - (3) develops and implemented hazard controls;
 - (4) allows the performance of work within the controls
 - (5) provides feedback on the adequacy of controls and continued improvement in safety management.
- (d) In performing work in accordance with BNL's DOE-approved Worker Safety and Health Program and the Integrated Safety Management Program the Contractor will, prior to initiation of work:
 - (1) Demonstrate well-established safety protocols applicable to the scope of work and consistent with the requirements of this clause. Prior to commencement of work on any separately definable construction activity (e.g., roofing, excavation, foundation), the Contractor must
 - (a) Submit a Phase Hazard Analysis (PHA) of the affected work. The analysis must:
 - (i) identify foreseeable hazards and planned protective measures;
 - (ii) address further hazards revealed by supplemental site information (e.g., site characterization data, as-built drawings).
 - (iii) provide drawings and/or other documentation of protective measures for which applicable Occupational Safety and Health Administration (OSHA) standards require preparation by a Professional Engineer or other qualified professional;
 - (iv) identify competent persons required for workplace inspections of the construction activity, where required by OSHA standards; and
 - (v) address hazards identified in the Statement of Work and this Agreement.
 - (b) Ensure workers are aware of foreseeable hazards and the protective measures described within the activity analysis prior to beginning work on the activity.
 - (c) Require that workers acknowledge being informed of the hazards and protective measures associated with the work activity. Those workers failing to utilize appropriate protective measures must be subject to the Contractor's disciplinary process.
 - (d) Provide a "Stop Work" policy similar to that established by BSA.
 - (e) Provide proof that employees were informed of their Workers Rights and Responsibilities set out in 10 CFR 851.20(b).
 - (2) During periods of active construction, the Contractor must have a designated representative on the worksite who is knowledgeable of the project's hazards and has authority to act on behalf of the Contractor. The designate representative must make frequent and regular inspections of the worksite to identify and correct any instances of noncompliance with the project safety and health requirements.
 - (3) Workers must be instructed to report to the Contractor's designated representative, hazards not previously identified or evaluated. If immediate corrective action is not possible or the hazard falls outside the project's scope, the Contractor must immediately notify affected workers, post appropriate warning signs, implement needed interim control measures, and notify BSA of the action taken. The Contractor or designated representative must stop work in the affected area until appropriate protective measures are established.
 - (4) The Contractor will be notified of worker Environmental, Safety and Health plans acceptance by BSA. Acceptance of the Contractor's worker safety and health plans will be at the sole discretion of BSA.

- (e) Exposure Monitoring/Occupational Medicine. The Contractor will perform the following additional hazard identification tasks compliant with the BSA Worker Safety and Health Program and the Integrated Safety Management Program and the PHA, prior to commencing work:
- (1) Contractor is responsible for identifying all potential exposures (chemical, biological, radiological, physical) to which its employees or the employees of its lower-tier subcontractors will be exposed while performing work under this contract. Contractor is responsible to provide qualified monitoring and assessment personnel and is responsible for providing the required exposure monitoring and providing employees appropriate personal protective equipment to minimize exposures.
 - (2) Contractor shall have an occupational medicine program that is compliant with the applicable requirements of 10 CFR 851, Appendix A. Contractor shall ensure that its employees and the employees of any lower tier subcontractor employees are medically qualified to perform work associated with any potential exposures and hazards that have been identified. Medical qualification and medical surveillance programs are the sole responsibility of the Contractor. In addition, the Contractor is responsible for maintaining any records associated with the administration of these programs. In the event that the Contractor or lower tier subcontractor employee requires a medical qualification examination or medical surveillance program, it is the Contractor's sole responsibility to obtain these services. Contractor must provide documented evidence that they have an occupational medical provider with a licensed medical physician.
- (f) The Contractor shall notify the BSA Contractual Representative immediately of any OSHA-recordable injuries/illnesses, any "off-normal occurrences," or Government property damaged, that the Contractor determines to have occurred in the course of operations on-site and shall furnish such further information as the BSA Contract Representative may require. An "off-normal occurrence" is any unplanned or unexpected event, including near misses, or the discovery of a deficiency in a procedure, plan, or system that has real or potentially undesirable consequences to personnel, equipment, facilities, the environment, and/or programs. In addition, the Contractor is responsible for ensuring compliance with 10 CFR 851.26 Recordkeeping and Reporting.
- (g) The Contractor's on-site ES&H activities will be subject to review by the Technical Representative of this contract. Other representatives of BSA may conduct periodic inspections of the Contractor's on-site offices, equipment, work and storage areas for compliance with the applicable ES&H requirements. The BSA Contract Representative will notify the Contractor by a written Notice of Non-compliance of any observed non-compliance with applicable ES&H requirements. The Contractor shall immediately take appropriate corrective action. The Contractor shall advise the BSA Contract Representative, in writing, within five (5) working days of the corrective action taken on any safety non-compliance noted on the written Notice of Non-compliance. If the Contractor fails or refuses to correct the safety non-compliance, BSA may perform, or cause to be performed, the necessary corrective work and unilaterally charge the Contractor for the cost thereof. Such charges will be deducted from payments otherwise due the Contractor under this contract. Repeated or willful non-compliances with applicable ES&H requirements by the Contractor shall constitute a default under other provisions of this contract and BSA may terminate the contract in accordance with those provisions.
- (h) The Contractor shall promptly evaluate and resolve any non-compliance with applicable ES&H requirements. If the Contractor fails to provide resolution or if, at any time, the Contractor's acts or failure to act causes substantial harm or an imminent danger to the environment, or health and safety of employees or the public, the BSA Contractual Representative may issue an order stopping work in whole or in part and the Contractor shall be liable for the delay and any costs thereby incurred. Any stop-work order issued by BSA under this clause (or issued by the Contractor to a subcontractor in accordance with this clause) shall be without prejudice to any other legal or contractual rights of BSA. In the event that the BSA Contractual Representative issues a stop-work order, an order authorizing the resumption of the work may be issued at the discretion of the BSA Contract Representative. The Contractor shall not be entitled to an extension of time, or additional cost or fee, or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (i) Employee Concerns Program
- (1) The Contractor, its agents, employees or subcontractors, are entitled to use the BSA Employee Concerns Program and Hotline (631)344-8800. The Hotline operates 24 hours per day, 7 days a week. Messages may be left anonymously, and all concerns are handled with confidentiality to the maximum extent possible. Employee concerns may also be submitted in writing to the BSA

- Employee Concerns Office, Building 400, or in person to Susan Foster, Building 400, 344-2888, during normal business hours, Monday through Friday 7:30 a.m. to 4:30 p.m.
- (2) For the purpose of this document, allegations, concerns, and complaints are handled in a like manner and are referred to collectively as "employee concerns." A concern can consist of a declaration, statement, or assertion of impropriety or inadequacy on the part of one's employer or others at a DOE Site that has affected (or threatens to affect) aspects of operations, such as the environment, health, safety, quality, or security, and may include fraud, mismanagement, waste, or abuse of authority.
 - (3) No retaliation or retribution shall be taken toward any individual as a result of filing an employee concern compliant with 10 CFR 708.
- (j) **Civil Penalties and Indemnification**
- (1) The 2002 Bob Stump National Defense Authorization Act amended the Atomic Energy Act by adding section 234C "Worker Health and Safety Rules for Department of Energy Nuclear Facilities." It required DOE to promulgate a worker safety and health rule. DOE published the Rule in the Federal Register on February 9, 2006. The rule is codified at 10 CFR 851. It establishes worker safety and health requirements that govern the conduct of contractor activities at both nuclear and non-nuclear sites. Contractors that fail to comply with the Rule are subject to civil penalties issued by DOE up to \$70,000.00 per violation, with each day of violation constituting a separate violation, or contractual penalties.
 - (2) The Contractor assumes full responsibility and shall indemnify, hold harmless, and defend BSA, its directors, officers, and employees from any civil liability under §234C of the Atomic Energy Act of 1954, as amended, or DOE's implementing regulations, arising out of the activities or performance of the Contractor, its subcontractors, suppliers, agents, employees, and their officers, or directors. The Contractor's obligation to indemnify and hold harmless shall expressly include attorney fees and other reasonable costs of defending any action or proceeding instituted under §234C or DOE's implementing regulations.
- (k) The Contractor is responsible for its subcontractors' compliance with the ES&H requirements of this contract. The Contractor shall include a clause substantially the same as this clause in lower-tier subcontracts involving complex or hazardous construction work at a DOE site or BSA-owned or -operated facilities or premises. Such subcontracts shall provide for the right to stop work under the conditions described herein.
- (l) The Contractor must submit a Safety Plan, which satisfies all the requirements of this Article, to BSA's Technical Representative or Work Control Coordinator/Manager and obtain approval of the Plan from a BSA Construction Engineer before work may proceed. Guidance for the preparation of the Safety Plan (including a template), is available at https://sbms.bnl.gov/sbmsearch/subjarea/117/117_SA.cfm?parentID=117.

Article 44. Identification of Employees

- (a) The Contractor agrees, pursuant to Executive Order 12989, to use an electronic employment Eligibility Verification (E-Verify) system designated by the Secretary of Homeland Security to verify the eligibility of:
 - (i) all persons hired during the contract term by the Contractor to perform duties within the United States; and
 - (ii) all persons assigned by the Contractor to perform work within the United States on the Federal Contract.
- (b) The Contractor agrees to incorporate the substance of this clause in all subcontracts under this contract. All contractor and subcontractor employees who will perform work on the Brookhaven National Laboratory (BNL) site are required to attend the Contractor/Supplier Orientation Training Course their first day on site and be approved by Brookhaven Science Associates, LLC (BSA). Contractor and subcontractor employees who have not attended the Safety Orientation will be directed to stop work until they have done so.
- (c) At no cost to the Contractor, BSA will issue contractor employee photo identification badges which will be required to obtain access to the site.
- (d) U.S. citizens must bring proof of citizenship, photo ID and proof of Social Security number. Acceptable citizenship proof is a passport, birth certificate, naturalization papers, voting eligibility, or similar documentation. Drivers' license, military ID cards, union cards, and Social Security cards are insufficient by themselves as proof of citizenship. Proof of Social Security number includes Social Security card, pay

stub, W-2 form or medical insurance card. Handwritten documents are not acceptable. Upon arrival at the BNL Main Gate, they will be sent to the Visitors Trailer to receive a temporary pass, which allows them access to the site to attend CVO training.

- (e) All non-U.S. citizen workers, including Legal Permanent Residents, requiring access to BNL shall complete a BNL Form 473 located on the BNL home page, www.bnl.gov, Guest Registration link. Each worker shall provide the requested personal information and information concerning their company, forwarding the completed form to their designated BNL sponsor. Non-U.S. citizens shall provide documentation showing eligibility to be in the United States. This includes a valid passport and visa. Other documentation, to include but not limited to, a permanent resident card, passport entry "process form 1-551", INS documents 1-94, 1-20, DS-2019, or 1-539 part 3 and proof of Social Security, may be necessary to establish legal status and work on the BNL site. Failure to provide proper documentation will result in access being denied until the required documents are provided. Foreign National Contractor employees must submit all required documents 30 days in advance of the required access date as access approvals may take up to 30 days. All Foreign National Contractor employees are responsible to ensure they remain in legal INS status. BNL ID badges will expire on the expiration date of their current legal status or one year after issuance, whichever comes first. At that point they must reapply with updated documentation to continue eligibility to work at BNL.
- (f) The Contractor shall ensure that all Contractor and Subcontractor employees who will perform work on site promptly obtain a current BNL contractor employee photo identification badge. Badges shall be obtained from the Badging Office in Building 400 (Research Support Building), Monday through Thursday, between 8:30 a.m. and 4:00 p.m. and Fridays between 8:30 a.m. and 1:00 p.m. In order to keep badging times to a minimum, the Contractor should limit sending all of his employees at the same time.
- (g) All Contractor and Subcontractor employees shall wear their ID badges so as to be visible at all times while on-site
- (h) Contractor employee identification badges are valid for one year after issuance and require renewal from the Badging Office in Building 400 (Research Support Building). Immediately on release of employees or project completion, whichever comes sooner, the badge holder or the Contractor's authorized representative shall return badges to the Badging Office in Building 400 (Research Support Building).
- (i) All badge holders shall report lost identification badges immediately to the Badging Office in Building 400 (Research Support Building).

Appendix A to Attachment A

General Decision Number: NY080013 03/06/2009 NY13

Superseded General Decision Number: NY20070013

State: New York

Construction Types: Building, Heavy, Highway and Residential

Counties: Nassau and Suffolk Counties in New York.

BUILDING CONSTRUCTION PROJECTS, RESIDENTIAL CONSTRUCTION PROJECTS (including single family homes and apartments up to and including 4 stories), HEAVY CONSTRUCTION PROJECTS, HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	02/08/2008
1	02/15/2008
2	02/22/2008
3	02/29/2008
4	03/14/2008
5	03/21/2008
6	05/02/2008
7	06/13/2008
8	07/04/2008
9	07/18/2008
10	07/25/2008
11	08/08/2008
12	08/22/2008
13	08/29/2008
14	09/19/2008
15	10/03/2008
16	11/14/2008
17	01/02/2009
18	02/06/2009
19	03/06/2009

ASBE0012-001 12/31/2007

	Rates	Fringes
Asbestos Workers/Insulator includes application of all insulating materials, protective coverings, coatings and finishing to all types of mechanical systems.....	\$ 46.86	26.97
HAZARDOUS MATERIAL HANDLER.....	\$ 24.45	8.50

BOIL0005-001 01/01/2007

	Rates	Fringes
BOILERMAKER.....	\$ 44.98	28.95+a

FOOTNOTE:

a. PAID HOLIDAYS: New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Labor Day and Good Friday, Friday after Thanksgiving, Christmas Eve Day and New Year's Eve

BRNY0001-001 07/01/2008

	Rates	Fringes
BRICKLAYER.....	\$ 46.68	20.21
MASON - STONE.....	\$ 55.34	22.13

CARP0007-016 07/01/2008

	Rates	Fringes
Carpenters:		
Building.....	\$ 36.63	26.93
Heavy & Highway.....	\$ 36.63	26.93
Residential.....	\$ 30.00	11.20

CARP0740-001 07/01/2005

	Rates	Fringes
MILLWRIGHT.....	\$ 38.13	35.40

CARP1456-009 07/01/2008

	Rates	Fringes
Carpenters:		
DIVERS TENDERS.....	\$ 39.18	38.06
DIVERS.....	\$ 54.63	38.06
DOCKBUILDERS.....	\$ 43.61	38.06
PILEDRIVERMAN.....	\$ 43.61	38.06

CARP1536-001 07/01/2003

	Rates	Fringes
Carpenters:		
TIMBERMEN.....	\$ 34.47	26.05

ELEC0025-001 04/26/2008

	Rates	Fringes
ELECTRICIAN.....	\$ 44.75	28.52

ELEC0025-002 09/27/2008

	Rates	Fringes
Electricians:		
Maintenance Unit.....	\$ 34.00	35.5%+3.46
Telephone Unit.....	\$ 31.00	47.5%+2.21
Wiring for single or multiple family dwellings and apartments up to and including 2 stories.....	\$ 24.70	13%+9.52

 ELEC1049-002 04/06/2008

	Rates	Fringes
Line Construction:		
Substation and Switching structures pipe type cable installation and maintenance jobs or projects; Railroad electrical distribution/ transmission systems maintenance (when work is not performed by railroad employees) Overhead and Underground transmission/distribution line work. Fiber optic, telephone cable and equipment;		
Groundman.....	\$ 24.83	17.91
Heavy Equipment Operator....	\$ 33.10	17.91
Lineman & Cable Splicer....	\$ 41.38	17.91
Material Man.....	\$ 36.00	17.91

 ELEV0001-002 03/17/2008

	Rates	Fringes
ELEVATOR MECHANIC		
Elevator Constructor.....	\$ 48.19	21.085+a+b
Modernization and Repair....	\$ 38.46	20.935+a+b

FOOTNOTE:

a. PAID HOLIDAYS: New Year's Day, Good Friday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

b. PAID VACATION: An employee who has worked less than 5 years shall receive vacation pay credit on the basis of 4% of his hourly rate for all hours worked; an employee who has worked 5 to 15 years shall receive vacation pay credit on the basis of 6% of his hourly rate for all hours worked; an employee who has worked 15 or more years shall receive vacation pay credit on the basis of 8% of his hourly rate for all hours worked.

 ENG10138-001 06/01/2008

BUILDING CONSTRUCTION

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 46.04	27.94+a
GROUP 2.....	\$ 43.65	27.94+a
GROUP 3.....	\$ 42.06	27.94+a

GROUP 4.....	\$ 38.85	27.94+a
GROUP 5.....	\$ 37.24	27.94+a

NOTES:

Hazmat premiums:

Level A	3.50
Level B	2.50
Level C	1.50
Level D	1.00

Oiler on truck cranes with boom length of 100 ft. or more
.25

FOOTNOTE:

a. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday or President's Day (in lieu of Lincoln's or Washington's Birthday), Good Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day or days celebrated as such. Any holiday that falls on a Saturday will be celebrated on Friday.

POWER EQUIPMENT OPERATOR CASSIFICATIONS

GROUP 1: Asphalt spreader, backhoe crawler capacity over cater- piller 225 and lomatsu 300, Boiler (thermoplastic), Cherry picker, over 50 tons, CMI or maxim spreader, concrete pump (with oiler), crane (crawler truck), crane (on barge), crane (stone setting), crane (structural steel), crane (with clam shell), derrick, dragline, dredge, gradall, grader, hoist (3 drum), loading machine (bucket) cap of 10 yds or over micro-trap, with compressor (negative air machine), milling machine, large pile driver, power winch, Stone setting/structural steel, power winch (truck mounted/stone steel) powerhouse, road paver scoop, carry-all, scraper in tandem shovel, sideboom tractor, sideboom tractor (used in tank work), stone spreader (self propelled tank work), zamboni (ice machine)

GROUP 2: Backhoe, boom truck, bulldozer, cherypicker, conveyor (multi), dinky locomotive, forklift, hoist, 2 drum, loading machine, loading machine (front end) mechanical compactors, (machine drawn), mulch machine (machine-fed), power winch, other than stone/structural steel, power winch (truck mounted other than stone steel) pump (hydraulic, with boring machine), roller, (asphalt), scoop (carry-all scraper), tower crane (maintenance man), trenching machine

GROUP 3: Comrpessor (structural steel), Compressor (2 or more in battery), concrete finishing mchine, concrete spreader, conveyor, curb machine (asphalt or concrete), curing machine, fireman, hoist (1 drum), micro-trap, (self contained, negative air machine), pump (4 inches or over), pump (hydraulic), pump (jet), pump (sumbersible), pump (well point), pulvi-mixer, ridge cutter, roller (dirt), striping machine, vac-all, welding and burning, welding machine (pile work), welding machine (structural steel)

GROUP 4: Compressor, compressor (on crane), compressor (pile work), compressor (stone setting), concrete breaker, concrete saw or cutter, forklift (walk behind, power operated), generator-pile work, generator, hydra hammer, mechanical compactors (hand operated), oiler (truck crane), pin puller, portable heaters, powerbroom, power buggies, pump (double action diaphragm), pump (gypsum), trench machine (hand), welding machine

GROUP 5: Batching plant (on site of job), generator (small), mixer (with skip), mixer (2 small with or without skip), mixer (2 bag or over, with or without skip), mulch machine, oiler, pump (centrifugal, up to 3 inches), root cutter, stump chipper, tower crane (oiler), tractor (caterpillar or wheel vibrator)

ENGI0138-002 08/01/2008

HEAVY & HIGHWAY

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 47.31	27.94+a
GROUP 2.....	\$ 44.14	27.94+a
GROUP 3.....	\$ 42.54	27.94+a
GROUP 4.....	\$ 39.33	27.94+a
GROUP 5.....	\$ 37.74	27.94+a
GROUP 6.....	\$ 29.91	9.05+10%

NOTES:

Hazmat premiums:

Level A	3.50
Level B	2.50
Level C	1.50

Truck and Crawler Cranes long boom premiums:

boom lengths (including jib) 100-149 ft	.50
boom lengths (including jib) 150-249 ft	.75
boom lengths (including jib) 250-349 ft	1.00
boom lengths (including jib) 350 ft	1.50

Cranes using clamshell buckets	.25
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Front end loader 10 yds and above	.25
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Oiler on truck cranes with boom length of 100 ft. or more	.25
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FOOTNOTE:

a. Paid Holidays: New Years Day, Lincoln's Birthday, Washington's Birthday or Presidents Day (in lieu of Lincoln's or Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day or days celebrated as such. Any holiday that falls on Saturday will be celebrated on Friday.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Asphalt spreader, backhoe crawler (capacity over caterpillar 225 and komatsu 300), boiler (thermoplastic), boring machine (post hole), cgherry picker (over 50 ton), CMI or maxim spreader, concrete pump, with oiler, crane (crawler truck), crane (on barge), crane (stone setting) crane (structural steel), crane (with clam shell), derrick, dragline, dredge, gradall, grader, hoist (3 drums), loading machine (bucket) capacity of 10 yards or over, micro-trap (with compressor-negative air machine), milling machine (large), piledriver, power winch (stone setting structural steel), power winch (truck mounted/stone steel), power-house, road paver, scoop, carry all (scraper in tandem), shovel, sideboom tractor, sideboom tractor (used in tank work), stone spreader (self-propelled), tank work, tower crane

GROUP 2: Bulldozer, Backhoe, Boom Truck, Boring machine/augur, Cherrypicker, Conveyor (multi), Dinky Locomotive, Forklift, Hoist (2 drum), Loading Machine, Loading Machine (front end), Mechanical Compactor (machine drawn), Mulch Machine (machine-fed), Power Winch (other than stone/structural steel), Power Winch (truck mounted/other than stone steel), Pump Hydraulic (with boring machine), Roller (asphalt), Scoop (carry-all, scraper), Tower Crane (maintenance man), Trenching Machine, Vermeer Cutter, Work Boat

GROUP 3: Curb Machine (asphalt or concrete), Maintenance Engineer (small equipment), Maintenance engineer (well-point) Mechanic (fieldman), Micro-Trap (self contained, negative air machine), Milling Machine (small), Pulvi-mixer, Pump (4 inches or over), Pump Hydraulic, Pump Jet, Pump Submersible, Pump (well point), Roller Dirt, Vac-All, Welding and burning, Compressor (structural steel), Compressor (2 or more battery), Concrete Finishing Machine, Concrete Spreader, Conveyor, Curing Machine, Fireman, Hoist (one drum), Ridge Cutter, Striping Machine, Welding Machine (pile work), Welding Machine (structural Steel).

GROUP 4: Compressor, Compressor on crane, Compressor (pile work), Compressor (stone setting), Concrete Breaker, Concrete Saw or Cutter, Fork Lift (walk behind, power operated), Generator- Pile Work, Generator, Hydra Hammer, Mechanical Compoactors (hand operated), Oiler (truck crane), Pin Puller, Portable Heaters, Powerbroom, Power buggies, Power Grinders, Pump (double action diaphragm), Pump gypsum, Pump (single action 1 to 3 inches), Trench Machine hand, Welding Machine

GROUP 5: Batching Plant (on site of job), Generator (small), Grinder, Mixer (with skip), Mixer (2 small with or without skip), Mixer (2 bag or over, with or without skip), Mulch Machine, Oiler, Pump (centrifugal, up to 3 inches), Root Cutter, Stump Chipper, Tower Crane (oiler), Track Tamper (2 engineers, each), Tractor (caterpillar or wheel), Vibrator, Work boat (deckhand),

GROUP 6: Well drillers

IRON0046-003 07/01/2007

	Rates	Fringes
IRONWORKER		
METALLIC LATHERS.....	\$ 43.80	30.37

IRON0197-001 01/01/2009

	Rates	Fringes
IRONWORKER		
STONE DERRICKMAN.....	\$ 40.50	36.82

IRON0361-001 07/01/2008

	Rates	Fringes
IRONWORKER (STRUCTURAL).....	\$ 39.65	49.81

IRON0580-001 07/01/2008

	Rates	Fringes
IRONWORKER: ORNAMENTAL.....	\$ 39.55	38.70

LABO0066-001 07/01/2008

BUILDING

	Rates	Fringes
Laborers:		
Laborers.....	\$ 28.75	23.15
Plasterers Tenders.....	\$ 28.75	23.15

LABO0078-001 12/01/2006

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR		
BUILDING CONSTRUCTION		
ASBESTOS (Removal, Abatement, Encapsulation or Decontamination of asbestos); LEAD; & HAZARDOUS WASTE LABORERS (Hazardous Waste, Hazardous Materials, Biochemical and Mold Remediation, HVAC, Duct Cleaning, Re-spray Fireproofing, etc).....	\$ 27.00	9.81

LABO1298-001 06/01/2008

HEAVY & HIGHWAY

	Rates	Fringes
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Laborers:

Asphalt Rakers; Formsetters..\$ 32.71	21.38+A
Asphalt Shovelers, Roller	
Boys & Tampers.....\$ 31.80	21.38+A
Regular Laborers.....\$ 29.05	21.38+A

A. FOOTNOTES:

Laborers working in a hazardous material hot zone shall receive an additional 20% premium.

Where the contract provides for night work outside the regular hours of work, the employees shall be paid at straight time plus a 25% night work premium for the 8 hours worked during the night.

Firewatch work performed after regular hours shall be paid an additional 10% premium. Second and Third Shift work will be paid at a 10% premium.

Contractor requesting laborers certified for hazardous material work and/or employed on hazardous material shall be required to pay an additional 10% premium.

PAIN0009-002 05/01/2008

	Rates	Fringes
Painters:		
GLAZIERS.....\$ 38.00		29.59
Painters, Drywall Finishers.\$ 34.50		19.84
Spray, Scaffold,		
Sandblasting.....\$ 37.50		19.84

PAIN0806-010 10/01/2008

	Rates	Fringes
Painters:		
Structural Steel and Bridge..\$ 45.25		27.58

PAIN1974-002 07/04/2007

	Rates	Fringes
Painters:		
DRYWALL TAPERS/POINTERS.....\$ 38.32		19.39

PLAS0260-003 07/01/1999

	Rates	Fringes
PLASTERER.....\$ 27.91		15.16

PLAS0780-001 07/01/2007

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$ 44.40		26.10

 PLUM0200-001 11/01/2008

	Rates	Fringes
PLUMBER		
BUILDING CONSTRUCTION:.....	\$ 49.73	22.30
RESIDENTIAL CONSTRUCTION:...	\$ 26.73	8.15

PLUM0638-001 07/05/2006

	Rates	Fringes
PLUMBER		
SERVICE FITTERS.....	\$ 26.30	2.55
SPRINKLER FITTERS,		
STEAMFITTERS.....	\$ 43.82	32.72

Service Fitter work shall consist of all repair, service and maintenance work on domestic, commercial and industrial refrigeration, air conditioning and air cooling, stoker and oil burner apparatus and heating apparatus etc., including but not exclusively the charging, evacuation, leak testing and assembling for all machines for domestic, commercial and industrial refrigeration, air conditioning and heating apparatus. Also, work shall include adjusting, including capacity adjustments, checking and repairing or replacement of all controls and start up of all machines and repairing all defects that may develop on any system for domestic, commercial and industrial refrigeration and all air conditioning, air cooling, stoker and oil burner apparatus and heating apparatus regardless of size or type.

ROOF0154-001 10/01/2007

	Rates	Fringes
ROOFER, Including Built Up, Composition and Single Ply Roofs.....	\$ 36.50	23.78

* SHEE0028-002 01/29/2009

	Rates	Fringes
Sheet metal worker.....	\$ 45.40	36.51

TEAM0282-002 07/01/2008

	Rates	Fringes
Truck drivers:		
Asphalt.....	\$ 35.40	29.2025+a+b
Euclids & turnapulls.....	\$ 35.50	29.2025+a+b
High Rise.....	\$ 41.81	27.1025+a+b

FOOTNOTES:

a. PAID HOLIDAYS; New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Election

Day, Veterans' Day (Armistice Day), Thanksgiving Day and Christmas Day. Employees working two (2) days in the calendar week in which a holiday falls are to be paid for such holiday, provided that they share each remaining workday during such calendar week.

b.VACATION: For each 15 days worked with the contract year an employee will receive one day vacation with pay, maximum vacation of 3 weeks per year. In addition, an employee who qualifies for two weeks (10 days) vacation or more with pay and who has been continuously employed by his employer for six years before the close of any contract year, shall be entitled to one extra day vacation; seven years before the close of any contract year, shall be entitled to two extra days vacation; eight years before the close of any contract year, shall be entitled to three extra day vacation; nine years before the close of any contract year, shall be entitled to four extra day vacation; ten years before the close of any contract year or over shall be entitled to three weeks paid vacation with pay, but in no event shall any employee be entitled to more than three weeks vacation pay per year.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate), ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.)

and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**BROOKHAVEN SCIENCE ASSOCIATES, LLC
PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
BROOKHAVEN NATIONAL LABORATORY**

INSTRUCTIONS TO BIDDERS

**Invitation for Bids (IFB) No. CCWF-II
Central Chilled Water Facility - Phase II**

The following information applies to this solicitation.

1. Bid Requirements

Bids shall be submitted in duplicate on the forms provided (IFB, Page 3 of 6 and 4 of 6). Bids of \$100,000 or more must be accompanied by a bid guarantee as stipulated in the paragraph 4 below entitled "Bid Bonds". The bid guarantee shall be in the sum of 20% of the largest amount for which award can be made under the bid submitted, but in no case is to exceed \$3,000,000. A bid bond (Attachment C, Bid Bond, AMS Form 017) must be accompanied by a copy of the agent's authority to sign bonds for the surety company. A completed copy of the attached document entitled "Offeror Representations and Certifications – Supplier Information (Attachment E, AMS Form 010)" and "Representations and Certifications – Procurement Specific (Attachment D, AMS Form 009)" must accompany the bid. Any and all amendments issued on the solicitation must be acknowledged by entering the date and number on the Invitation for Bids forms.

2. Explanation of Bid Documents

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing (or by email to gardnerp@bnl.gov) no later than five (5) business days prior to the bid due date in order to allow time for responses to be received by all bidders. Oral explanations or instructions given before the award of a contract will not be binding. Any information given to a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

Plans and specifications may be obtained from www.bnl.gov/pe/CCWF.
Click on "Project Specifications" and "Construction Drawings".
A copy of the project Home Page is attached hereto.

3. **Bidders' Qualifications**

To be considered for award, bidders must execute the attached Qualification Criteria Form (J/N 11705). **Failure to acknowledge a "YES" to any of the Qualification Criteria and provide the required supporting documentation may result in your bid being considered non-responsive.**

4. **Bid Bonds**

- a) Bidders shall furnish a separate bid bond, or United States bonds or Treasury notes or a certified or bank check in the proper amount by the time set for opening of bids. Failure to do so may be cause for rejection of your bid. BSA will return notes, or certified or bank checks to: (1) unsuccessful bidders as soon as practicable after the opening of bids, and (2) the successful bidder upon execution of contractual documents and the submission of acceptable performance and payment bonds (Attachment G –AMS-Form 024 and Attachment H – AMS-Form 025) .
- b) Bid bonds shall be submitted on the attached form. Only a bond issued by a surety company holding a certificate of authority from the Secretary of the Treasury will be accepted by BSA.
- c) If the successful bidder, upon acceptance of its bid by BSA within the period specified for acceptance, fails to execute all contractual documents or submit payment and performance bonds as required by the solicitation within the time specified, BSA may terminate the contract for default.
- d) Bidders will allow ninety (90) days for acceptance of bid.
- e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid. The bid bond, or bonds or notes of the United States, shall be made available to offset the difference.

5. **Preparation of Bids**

Each of the two submitted IFB forms must be hand signed. The person signing the bid must initial each erasure or change appearing on the bid form. **Unless otherwise stated, bidders must bid on all items for which a bid is requested. Failure to do so will disqualify the bid.**

6. **Amendments to the Invitation for Bids**

If an amendment to this IFB is issued, then all terms and conditions, which are not modified, remain unchanged. **Bidders shall acknowledge receipt of all amendments by filling in the amendment number and date on the IFB in the space indicated. Failure to do so will render your bid non-responsive.**

7. Submission of Bids

Bids and bid modifications shall be submitted in sealed envelopes or packages addressed to the Procurement and Property Management Division, Construction Support Section, Bldg. 134-C, Brookhaven National Laboratory, Upton, NY 11973. The outside of the envelope must show the date and time specified for submission, the IFB number and the name of the bidder. An envelope is provided for your use; be sure to use this envelope as an official bid submittal label. Hand delivered bids must be deposited in the bid box in Bldg. No. 134-C, Brookhaven National Laboratory, prior to the time and date set for bid opening. Insert the bid envelope into the date/time stamp machine located next to the bid box prior to depositing it in the bid box.

8. Late Submissions, Modifications and Withdrawals

- a) Bids, including their modification or withdrawal, received after the date and exact time specified for receipt shall be considered late. Such a bid may be considered only if it is received before award is made and the Procurement and Property Management (PPM) Division manager or designee determines that it is in BSA's best interest to do so. Any late bid received by mail will not be considered unless:
 - 1) It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been sent by registered or certified mail by the 15th).
 - 2) It was sent by mail and it is determined by BSA that the late receipt was due solely to mishandling by BSA after receipt at the Laboratory.
 - 3) It was sent by U.S. Postal Service Express Mail Next Day Service – Post Office to Addressee, not later than 5:00 PM at the place of mailing, two working days prior to the date specified for receipt of bids. The term “working days” excludes weekends and U.S. Federal holidays.
- b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph “a)” above; however, a late modification of an otherwise successful bid, that makes its terms more favorable to BSA, will be considered at any time it is received and may be accepted.
- c) The only acceptable evidence to establish the date of mailing of a late bid, modification or withdrawal sent either by registered or certified mail is the

U.S. Postal Service postmark both on the envelope or wrapper and on the original receipt from the U. S. Postal Service. Both postmarks must show a legible date, or the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U. S. Postal Service on the date of mailing. Therefore, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

- d) The only acceptable evidence to establish the time of receipt at Brookhaven is the date/time stamp in the Procurement and Property Management Division on the bid wrapper and/or envelope.
- e) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent by U. S. Postal Service Express Mail Next Day Service -- Post Office to Addressee, is the date entered by the post office receiving clerk on the "Express Mail Next Day Service -- Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U. S. Postal Service. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S Postal Service on the date of mailing. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull's-eye postmark on both the label and the envelope or wrapper.
- f) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. A bid may be withdrawn in person by the bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

9. **Alternate Bid Items**

- a) Because of budgetary constraints, BSA, at times, requires bidders to price alternate work items in addition to the base bid item. Provide pricing for alternate bid items in the places indicated on the bid form. **Failure to provide a price for all alternate bid items requested will render a bid non-responsive.**
- b) It is always BSA's intent to contract for as much work as its budget will allow. Bids will initially be evaluated on the basis of the greater amount of work. Only if the lowest of these bids exceeds BSA's budget to complete

the work will bids be evaluated on the basis of the lesser amount of work. The IFB lists the priority in which the bids will be evaluated.

- c) BSA reserves the right to reject all bids if the lowest base bid price exceeds BSA's budget to complete the work.

10. Contract and Bonds

Within fourteen (14) days after receipt of award, the bidder to whom award is made shall furnish two bonds, each with satisfactory security; namely, a performance bond and a payment bond. Article 6 of the General Terms and Conditions For Construction and Labor Hour Contracts (Attachment A, Rev. 4 - Construction, Approved February 17, 2009) provided with the Invitation for Bids describes the bonding requirements in more detail. BSA will supply the bond forms to the successful bidder. Only these forms will be acceptable. Only the bond of a surety company holding a certificate of authority from the Secretary of the Treasury will be accepted by BSA. The names of acceptable surety companies may be found at: www.fms.treas.gov/c570/c570.html. Click on "Certified Companies".

11. Insurance

Within fourteen (14) days after receipt of award, the bidder to whom award is made shall submit Certificates of Insurance with the coverages indicated in Article 13 of the General Terms and Conditions of the contract. The certificate must show that Brookhaven Science Associates, LLC and the U.S. Government are named as additional insured and that the insurance carrier will give BSA thirty (30) days prior written notice in the event of cancellation or material change in the policy.

12. Certifications

During the course of the work, the Contractor will be required to submit the following to the Procurement and Property Management Division.

- a) Weekly Certified Payrolls for both of its own work-force and that of subcontractors.
- b) Copeland Statement of Compliance for both of its own work-force and that of all subcontractors.
- c) A Release of Claims against BSA and the Government at the completion of the work.

13. E.E.O./Affirmative Action Pre-Award Meeting

BSA is responsible for determining whether the successful bidder appears to be able to comply with the provision of Executive Order No. 11246, as amended, relating to Equal Employment Opportunity. An E.E.O. compliance review will be conducted with the successful bidder prior to contract award. Review the clauses

entitled *Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction (FAR 52.222-23)*, and *Affirmative Action Compliance Requirements for Construction (FAR 52.222-27)*, incorporated by reference in Article 17, Labor Standards, of the General Terms and Conditions.

14. **Small Business Subcontracting Plan**

(Applicable to bids of \$1,000,000 or more) **All bidders certifying that they are "large businesses" must submit a Small Business Subcontracting Plan for BSA's approval prior to contract award.** The plan, and instructions for completing it, is included in the bid documents. Firms certifying that they are small businesses need not complete the plan.

15. **Davis-Bacon Requirements**

This is a prevailing wage contract. Payment of wages to contract employees, including subcontract employees, shall be at rates not less than those contained in the wage determination included in the Invitation for Bids. BSA will make periodic site visits to interview individual workers to ensure the requirements of the Davis-Bacon Act are being met. Article 17 of the Terms and Conditions covers the labor aspects of this contract.

16. **Pre-Bid Site Visits**

A pre-bid meeting and site visit will be conducted in the place and on the date shown on the Invitation for Bids.

A list of all individuals attending a pre-bid meeting not possessing a valid Brookhaven ID badge must be faxed to Peter Boyle, (Fax (631) 344-5145, Telephone (631) 344-2522) no later than three days prior to the pre-bid meeting. In addition, indicate your company name, the job name and number, and if they are a U.S. citizen. Foreign Nationals must complete a Guest Registration and obtain approval for site access in order to attend pre-bid meetings (processing must be submitted thirty (30) days prior to the visit). On the day of arrival, allow an additional twenty minutes for check-in and temporary pass issuance by security.

Failure to comply with these requirements may hamper access or cause access to be denied.

17. **Tax Exemption**

Any contract, subcontract or purchase order resulting from this IFB will not be subject to New York State Sales and Use Taxes. BSA's Exempt Organization Certification Number is 216880.

Modernization Project Office Facilities & Operations Directorate

BNL: Departments | Science | ESS&H | Newsroom | Administration | Visitors | Directory

Central Chilled Water Facility – Phase II (CCWF-II) Project

search

Go

[Find People](#)

[Project Management](#)

[Project Home](#)

[Organizational Chart](#)

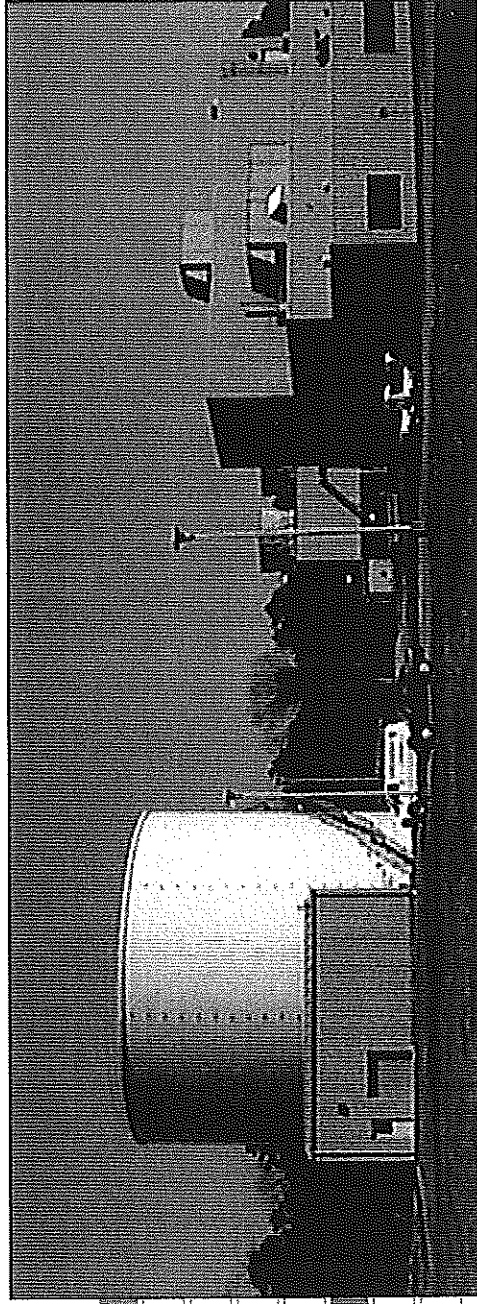
[Integrated Project Team](#)

[Image Gallery](#)

[Plans & Specifications](#)

[Project Specifications](#)

[Construction Drawings](#)



Existing BNL Central Chilled Water Facility

The Central Chilled Water Facility – Phase II project is scheduled to be open for construction bidding in late March, and break ground in mid 2009. This approximately 14,000 gsf 2-story expansion project will more than double the size of the existing plant, and will provide needed chilled water and compressed air capacity for several new exciting projects, including the NSLS-II and ISB. The facility will be energy efficient and incorporate sustainable design principles while providing chilled water and compressed air to facilitate and realize the scientific mission at BNL.

NOTE: It is the responsibility of all bidders to check this website for the most current revisions to all drawings and specifications.

Contractual Representative and Information

For Procurement/Bidding information contact:

Mr. Philip Gardner
Senior Contract Specialist
Brookhaven National Laboratory
Procurement and Property Management Division
Building 134C
Upton, NY 11973-5000
Phone: 631-344-3199

Fax: 631-344-2884

E-mail: gardnerp@bnl.gov

For all other bid documents go to:

<http://www.FedBizOpps.gov>

Search for Central Chilled Water Facility Phase II (CCWF-II)



Last Modified: March 16, 2009



One of ten national laboratories overseen and primarily funded by the Office of Science of the U.S. Department of Energy (DOE), Brookhaven National Laboratory conducts research in the physical, biomedical, and environmental sciences, as well as in energy technologies and national security. Brookhaven Lab also builds and operates major scientific facilities available to university, industry and government researchers. Brookhaven is operated and managed for DOE's Office of Science by Brookhaven Science Associates, a limited-liability company founded by Stony Brook University, the largest academic user of Laboratory facilities, and Battelle, a nonprofit, applied science and technology organization.

[Privacy and Security Notice](#) | [Contact Web Services for help](#)

Attachment C

PROCUREMENT AND PROPERTY MANAGEMENT DIVISION

BROOKHAVEN NATIONAL LABORATORY

Managed by Brookhaven Science Associates, LLC
under contract to the U.S. Department of Energy

ACQUISITION MANAGEMENT SYSTEM FORM

Form No. AMS-Form-017

Revision No. 0

APPROVED BY:

M.F. Healey / 10/28/04

PPM Manager/Date

Bid Bond

Date Bond Executed (Must not be later than Bid Opening Date):

PRINCIPAL (Legal name and business address)

Legal Name:

Address:

City, St. Zip

Type of Organization ("X" one)

☐ Individual☐ Partnership☐ Joint Venture☐ Corporation

State of Incorporation:

SURETY(IES) (Name and business address)

Name:

Address:

City, St. Zip

PENAL SUM OF BOND

Percent of
Bid Price

Amount Not to Exceed

Million(s)

Thousand(s)

Hundred(s)

Cents

BID IDENTIFICATION

Bid Date

Invitation Number:

For (Construction,
Supplies or Services)

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the Brookhaven Science Associates L.L.C. and any successor Contractor to operate Brookhaven National Laboratory, (hereinafter called the Obligee) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal – (a) upon acceptance by the Obligee of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Obligee for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Obligee. Notice to the surety(ies) of extension(s) are waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL

Signature(s)

1.

2.

3.

(Seal)

(Seal)

(Seal)

Corporate
SealName(s) and
Title(s) typed

1.

2.

3.

**PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
ACQUISITION MANAGEMENT SYSTEM FORM**

Form No. AMS-Form-017

Bid Bond (Continued)

INDIVIDUAL SURETY(IES)

Signature(s)	1.	2.
	(Seal)	(Seal)
Name(s) (Typed)	1.	2.

CORPORATE SURETY(IES)

	Name: Address:	City, St. Zip:	State of Inc.	Liability Limit (\$)	
SURETY A					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY B					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY C					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY D					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		

**PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
ACQUISITION MANAGEMENT SYSTEM FORM**

Form No. AMS-Form-017

Bid Bond (Continued)

SURETY E	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:				
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY F	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:				
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY G	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:				
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		

Instructions

- This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Procurement and Property Management Division Manager.
- Insert the full legal name and business address of the Principal in the space designated "Principal" on the Page 1 of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
- The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed _____ dollars).
- Corporations executing the bond as sureties must appear on the Department of Treasury's list of approved sureties and must act within the limitations listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 - Where individual sureties are involved, a completed Affidavit of Individual surety (Form 28), for each individual surety, shall accompany the bond. The Obligee may require the surety to furnish additional substantiating information concerning its financial capability.
- Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
- Type the name and title of each person signing this bond in the space provided.
- In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror".

Attachment D

PROCUREMENT AND PROPERTY MANAGEMENT DIVISION

BROOKHAVEN NATIONAL LABORATORY

Managed by Brookhaven Science Associates, LLC
under contract to the U.S. Department of Energy

ACQUISITION MANAGEMENT SYSTEM FORM

Form No. AMS-Form-009

Revision No. 4

APPROVED BY:

M. F. Healey / 2/22/07

PPM Manager/Date

Representations and Certifications – Procurement Specific

Solicitation Number: _____

Company Name: _____

Certifying Official: _____, _____

I Annual Representations and Certifications

The offeror has:

- (1) ☐ Submitted to the BSA's Procurement and Property Management Division annual representations and certifications AMS-Form-010, dated _____ that are incorporated herein by reference, and are current, accurate, and complete as of the date of this proposal, except as follows:
- (2) ☐ Enclosed its annual representations and certifications.
- (3) ☐ AMS-Form-010, Annual Representations and Certifications will be completed prior to award of any contract or purchase order.

II Buy American Act Certificate

- (1) The offeror certifies that each end product, except those listed in paragraph (2) of this section, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

- (2) Foreign End Products:

Line Item No.	Country of Origin

III Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

**BROOKHAVEN NATIONAL LABORATORY
ACQUISITION MANAGEMENT FORM**

Procedure No. AMS-FORM-009

Revision No. 4

Page 2 of 11

**Representations and Certifications – Purchase Order
Specific**

- (1) (a) The Offeror certifies, to the best of its knowledge and belief, that-
- (i) The Offeror and/or any of its Principals-
- (A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- (B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
- (C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.
- (ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- (b) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

- (2) The Offeror shall provide immediate written notice to BSA's Contractual Representative if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (3) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by BSA's Contractual Representative may render the Offeror nonresponsible.
- (4) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is

**BROOKHAVEN NATIONAL LABORATORY
ACQUISITION MANAGEMENT FORM**

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**Representations and Certifications – Purchase Order
Specific**

normally possessed by a prudent person in the ordinary course of business dealings.

- (5) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to BSA and the Government, BSA's Contractual Representative may terminate the contract resulting from this solicitation for default.

IV Place of Performance

- (1) The performance of any purchase orders or contracts resulting from this solicitation will be performed outside the United States and for which no recruitment of workers within the United States is involved, ☐ True or ☐ False, If True no further questions must be answered and this form is complete. If False continue.
- (2) The offeror in the performance of any contract resulting from this solicitation, ☐ intends, ☐ does not intend to use one or more plants or facilities located at a different address from the address of the offeror as indicated in this proposal or response to request for information.
- (3) If the offeror checks "intends" in paragraph (1) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror

V Previous Contracts and Compliance Reports

The offeror represents that-

- (1) It ☐ has, ☐ has not participated in a previous contract, or subcontract, subject to FAR 52.222-26, Equal Opportunity,
- (2) It ☐ has, ☐ has not filed all required compliance reports; and
- (3) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

VI Affirmative Action Compliance

The offeror represents that-

- (1) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each

**BROOKHAVEN NATIONAL LABORATORY
ACQUISITION MANAGEMENT FORM**

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**Representations and Certifications – Purchase Order
Specific**

establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

- (2) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

The following Representations and Certifications are required for all Non Commercial Procurements

VII Property

The offeror represents that-

- (1) Government-owned property ☐ is or ☐ is not contemplated under this contract. If yes: ☐ Government-Furnished Property or ☐ Contractor Acquired Property.
- (2) It ☐ does have or ☐ does not have a property control system.
- (3) This system ☐ has or ☐ has not been approved by a Government or Brookhaven official. If it has been approved list the name and address of the approving official:

VIII Rights to Proposal Data (Technical)

Except for data contained on pages _____, it is agreed that as a condition of award of a contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data-General" clause contained in the contract) in and to the technical data contained in the proposal dated _____, upon which the contract is based.

IX Representation of Limited Rights Data and Restricted Computer Software

- (1) The statement of work sets forth the work to be performed if a contract award results, and BSA's known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide BSA the option to order additional data under the Additional Data Requirements clause at 52.227-16 of the FAR, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data-General clause at 52.227-14 that is to be included in the contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility
- (2) As an aid in determining BSA's need to include Alternate II or Alternate III in the clause at

**BROOKHAVEN NATIONAL LABORATORY
ACQUISITION MANAGEMENT FORM**

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**Representations and Certifications – Purchase Order
Specific**

52.227-14, Rights in Data-General, the offeror shall complete paragraph (3) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

- (3) The offeror has reviewed the requirements for the delivery of data or software and states-
- ☐ None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

☐ Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

Note: "Limited rights data" and "Restricted computer software" are defined in the contract clause entitled "Rights in Data-General."

—+—
The following Representations and Certifications are required for all Procurements greater than \$100,000
—+—

X **Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions**

- (1) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989-
- (a) No Federal appropriated funds have been paid, or will be paid, to any person for influencing, or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
- (b) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying

**BROOKHAVEN NATIONAL LABORATORY
ACQUISITION MANAGEMENT FORM**

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**Representations and Certifications – Purchase Order
Specific**

Activities, to the BSA Procurement and Property Management Division; and

- (c) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

+

The following Representations and Certifications are required for all Procurements greater than \$100,000 that are competitively awarded

+

XI Certification of Toxic Chemical Release Reporting

- (1) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.
- (2) By signing this offer, the offeror certifies that-
- (a) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or
- (b) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: [Check each block that is applicable.]
- (i) ☐ The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;
- (ii) ☐ The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);
- (iii) ☐ The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
- (iv) ☐ The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:
- (A) Major group code 10 (except 1011, 1081, and 1094).
- (B) Major group code 12 (except 1241).
- (C) Major group codes 20 through 39.

**BROOKHAVEN NATIONAL LABORATORY
ACQUISITION MANAGEMENT FORM**

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**Representations and Certifications – Purchase Order
Specific**

- (D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).
- (E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or
- (v) ☐ The facility is not located in the United States or its outlying areas.

The following Representations and Certifications are required for all Procurements greater than \$100,000 that result in a Firm Fixed Price (FFP) Contract

XII Certificate of Independent Price Determination

- (1) The offeror certifies that-
 - (a) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-
 - (i) Those prices;
 - (ii) The intention to submit an offer; or
 - (iii) The methods or factors used to calculate the prices offered.
 - (b) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
 - (c) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
- (2) Each signature on the offer is considered to be a certification by the signatory that the signatory-
 - (a) (i) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (1)(a) through (1)(c) of this provision; or
 - (b) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (1)(a) through (1)(c) of this provision _____
[insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];
 - (ii) As an authorized agent, does certify that the principals named in subdivision

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- (iii) (2)(b)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (1)(a) through (1)(c) of this provision; and
As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (1)(a) through (1)(c) of this provision.

- (3) If the offeror deletes or modifies paragraph (1)(b) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

—
The following Representations and Certifications are required for all Procurements greater than \$500,000
—

XIII Cost Accounting Standards Notices and Certification

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by numbers 1 through 3.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part B does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

- (1) Disclosure Statement-Cost Accounting Practices and Certification
- (a) Any contract in excess of \$500,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.
- (b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part 1 of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

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(c) Check the appropriate box below:

- (i) ☐ Certificate of Concurrent Submission of Disclosure Statement. The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:
- (A) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and
 - (B) One copy to the cognizant Federal auditor. (Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement:

Name and Address of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

- (ii) ☐ Certificate of Previously Submitted Disclosure Statement. The offeror hereby certifies that the required Disclosure Statement was filed as follows:
- Date of Disclosure Statement:
- Name and Address of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

- (iii) ☐ Certificate of Monetary Exemption. The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise BSA's Procurement and Property Management Division immediately.
- (iv) ☐ Certificate of Interim Exemption. The offeror hereby certifies that
- (A) the offeror first exceeded the monetary exemption for disclosure, as defined in (iii) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and

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(B) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to BSA's Procurement and Property Management Division, in the form specified under paragraph (c)(i) or (c)(ii) of Part 1 of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

(d) ☐ Certificate of Disclosure Statement Due Date by Educational Institution. If the offeror is an educational institution that, under the transition provisions of 48 CFR 9903.202-1(f), is or will be required to submit a Disclosure Statement after receipt of this award, the offeror hereby certifies that (check one and complete):

(i) ☐ A Disclosure Statement Filing Due Date of _____ has been established with the cognizant Federal agency.

(ii) ☐ The Disclosure Statement will be submitted within the 6-month period ending _____ months after receipt of this award.

Name and Address of Cognizant ACO or Federal Official Where Disclosure Statement is to be Filed:

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (d). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

(2) Cost Accounting Standards-Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

☐ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the

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Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

(3) Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with paragraph (1)(c) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts. ☐ yes ☐ no

Attachment E

PROCUREMENT AND PROPERTY MANAGEMENT DIVISION BROOKHAVEN NATIONAL LABORATORY Managed by Brookhaven Science Associates, LLC under contract to the U.S. Department of Energy ACQUISITION MANAGEMENT SYSTEM FORM	Form No. AMS-Form-010
	Revision No. 2
	APPROVED BY: <u>M.F. Healey / 11/02/04</u>
PPM Manager/Date	
REPRESENTATIONS AND CERTIFICATIONS – SUPPLIER INFORMATION	

Company Name _____
 Address _____

Certifying Official

Name: _____

Title: _____

Date: _____

Solicitation #: _____

Sol. Date: _____

Phone Number _____

Fax Number _____

Email Address _____

Vendor Status: New ☐ Inactive ☐ Active ☐

Vendor Code: _____

Initial Certification ☐ Annual Recertification ☐ Address Change ☐ Type of Organization Change ☐
 Small Business Program Representation Change ☐

Invoice Information

Company Name _____
 Address _____

Remit Information

Company Name _____
 Address _____

Taxpayer Identification

Taxpayer Identification Number (TIN).

☐ TIN: _____

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

Type of organization

☐ Sole proprietorship;

☐ Partnership;

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**REPRESENTATIONS AND CERTIFICATIONS –
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- ☐ Corporate entity (not tax-exempt);
- ☐ Corporate entity (tax-exempt);
- ☐ Educational Institution;
- ☐ Government entity (Federal, State, or local);
- ☐ Foreign government;
- ☐ International organization per 26 CFR 1.6049-4;
- ☐ Other: _____.

The North American Industry Classification System (NAICS) Code (Replaces the
SIC Code)

NAICS Code _____.

Common parent

- ☐ Offeror is not owned or controlled by a common parent
- ☐ Name and TIN of common parent:
Name _____.
TIN _____.

Small Business Program Representations

The small business size standard for your NAICS Code is _____.

Note: The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

Representations

- (1) The offeror represents that it ☐ is, ☐ is not a small business concern.
- (2) The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
- (3) The offeror represents that it ☐ is, ☐ is not a women-owned small business concern.
- (4) The offeror represents that it ☐ is, ☐ is not a veteran-owned small business concern.
- (5) The offeror represents that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.
- (6) The offeror represents that it ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126.

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**REPRESENTATIONS AND CERTIFICATIONS –
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Small Disadvantaged Business Status

Representations

- (1) ☐ It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and
- (A) No material change in disadvantaged ownership and control has occurred since its certification;
- (B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
- (C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration; or
- (2) ☐ It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

Definitions

Taxpayer Identification Number (TIN)

Means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

Common Parent

Means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Small Business Concern

Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard for the listed NAICS.

Women-Owned Small Business Concern

Means a small business concern

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

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<p align="center">REPRESENTATIONS AND CERTIFICATIONS – SUPPLIER INFORMATION</p>	<p>Page 4 of 4</p>

- (2) Whose management and daily business operations are controlled by one or more women.

HUB Zone Small Business Concern

Means a small business concern that is small as defined by § 126.203, is exclusively owned and controlled by persons who are United States citizens, and has its principal office located in a HUBZone.

Veteran-Owned Small Business Concern

Means a small business concern

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

Service-Disabled Veteran-Owned Small Business Concern

- (1) Means a small business concern-

- (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

- (2) **Service-Disabled Veteran** means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

Attachment F
BROOKHAVEN NATIONAL LABORATORY
SUPPLIER QUALITY ASSURANCE REQUIREMENTS
(BNL-QA-101)

PO/Contract No.: CCWF-II

INSTRUCTIONS: At least one subparagraph in clause 3.1 must be selected which will automatically invoke clauses 3.2 through 3.7 collectively on purchase orders. If applicable, the Special Requirements of Section 4.0 need to be individually selected and can be modified as required.
(NOTE: Save this form to your desktop and select the appropriate clauses by clicking on the boxes ☐).

1.0 PURPOSE & SCOPE

1.1 This document establishes quality assurance requirements to which Suppliers to Brookhaven National Laboratory (BNL) shall conform to when specified in the procurement documentation.

1.2 This document contains two main sections. Section 3.0 covers the general requirements that are applicable to all Suppliers. Section 4.0 contains special quality requirements that are applicable only when specifically invoked in the procurement documentation.

2.0 DEFINITIONS

2.1 The term Procurement documentation means the purchase order (PO), contract, subcontract, Request for Proposal (RFP), Request for Quotation (RFQ) or other written agreement with the Supplier (seller) in which the requirements of BNL are incorporated.

2.2 The term Buyer means Brookhaven Science Associates (BSA) operating Brookhaven National Laboratory, acting by and through its Procurement & Property Management Division (PPM) issuing the purchase order/contract.

2.3 The term Supplier (seller) means the legal entity, which is the contracting party, with the Buyer with respect to the procurement documentation.

2.4 The term article or item means a product and/or a service.

3.0 GENERAL REQUIREMENTS

Unless otherwise specified in the procurement documentation, the following General Requirements apply:

3.1 Supplier's Quality System and Quality Requirements

The Supplier shall have and maintain an effective quality system that will, as a minimum, comply with all of the requirements as designated by the following:

☐ **3.1.1** A quality system certified/registered to the ISO 9001 standard: (Latest revision as of the date of issuing the procurement documentation).

☐ **3.1.2** A quality system that meets the requirements of the ISO 9001 standard: "Quality Management Systems – Requirements" (Latest revision as of the date of issuing the procurement documentation).

☐ **3.1.3** Conformance to Supplier's/Manufacturer's quality program or system.

☒ **3.1.4** Other: Refer to procurement documentation (SOW, specifications, drawings) for all quality requirements.

NOTE: Paragraphs 3.2 through 3.7 apply to all purchase orders regardless of the quality system selected in 3.1 and will be included collectively in other procurement documentation when required / specified.

3.2 Assessment by Buyer

The Supplier's Quality system is subject to assessments by the Buyer's Representative(s) for conformance with the requirements of the purchase order

3.3 Change Approval

No change(s) shall be made to any Buyer requirements without the prior written approval of the Buyer.

3.4 Responsibility for Subcontractors

It is the responsibility of the Supplier to impose applicable quality assurance requirements upon their subcontractors. Additionally, the Buyer reserves the right to disapprove, in writing, any subcontractor.

3.5 Responsibility for Conformance

The Supplier is responsible to provide items which conform to the requirements of the purchase order regardless of any assessments, surveillances, inspections and/or tests by the Buyer or its representatives at either the Supplier's or Buyer's facility. The Buyer reserves the right to request failure analysis and corrective action for non-conforming articles or items submitted or supplied to the Buyer.

3.6 Protection of Material and Equipment

The Supplier shall employ procedures, which assure adequate protection of material and equipment during shipment and while in storage. Such protection shall include special environmental packaging, as necessary. All items shipped (originally packaged or repackaged) to BNL or other locations cited in the purchase order or contract, shall comply with the requirements for preservation, packaging and marking as stated in the latest revision of ASTM Standard D 3951-98 Standard Practice for Commercial Packaging.

3.7 Measuring and Test Equipment (M&TE) Calibration

The Supplier shall calibrate any M&TE used in the fulfillment of the purchase order requirements against certified standards that are traceable to national standards such as the National Institute of Standards and Technology (NIST). The Supplier shall notify the Buyer of any condition found during the calibration, servicing or repair of measuring and test equipment that can affect the end item requirements.

4.0 SPECIAL REQUIREMENTS

The following Special Requirements are applicable only when specified in the procurement documentation or as indicated by check mark hereon. These Requirements can be modified as required.

INSTRUCTIONS: Since subparagraphs (e.g., 4.4.1) are tied to the main paragraph (e.g., 4.4), the requirements of the main paragraph will apply by default whenever any subparagraph is selected (regardless of whether the main paragraph was selected / checked).

☐ **4.1 Q.A. Program or Manual:** The Supplier shall submit a copy of their Quality Assurance Program or Manual with their proposal for review and evaluation.

☐ **4.2 Configuration Control System:** The Supplier shall establish and maintain a system to assure that all end items (including spares) are of the proper configuration, and that all approved configuration changes are incorporated at the specified effectivity points. Records shall be maintained verifying the configuration of each item.

☐ **4.3 Process Sheets, Travelers, etc.:** The Supplier shall maintain a system of process sheets, shop travelers, or equivalent means to define the sequence of manufacturing, inspection, installation and test activities to be performed. Flow sheets, or equivalent, shall provide for sign-off by designated inspection personnel at specified inspection and test points, including, as required, re-inspection and re-test points, to assure completion as well as proper sequencing of required operations.

☐ **4.4 Manufacturing/Inspection/Test Plan:** Sixty (60) days prior to performance of work, the Supplier shall submit for the Buyer's approval a Manufacturing/Inspection/Test Plan for the item(s) to be produced. Once approved, changes/revisions must be approved by the Buyer prior to implementation. The Plan shall satisfy one or more of the following as selected:

☐ **4.4.1** Identification of parts and subassemblies showing integrated flow into end item(s).

☐ **4.4.2** Identification of critical manufacturing operations, as well as inspection and test checkpoints.

☐ **4.4.3** The Plan may be a single document, or may make use of existing "travelers," or other suitable planning and control documents.

☐ **4.5 "Witness" Points:** The Buyer reserves the right to designate selected manufacturing, inspection, and/or test operations as "witness" points. The Supplier shall provide the Buyer with five (5) working days notice in advance of reaching such witness points during the manufacturing and test cycle of each item.

☐ **4.6 Test and Inspection Procedures:** Test and inspection procedures required to demonstrate satisfactory completion of requirements shall be prepared by the Supplier and submitted to the Buyer for approval sixty (60) days prior to use of such procedures. Once approved, changes / revisions must be approved by the Buyer prior to implementation.

☐ **4.7 Special Process:** Processes (e.g., welding, brazing, bonding, plating, chemical machining, chemical coating, chemical cleaning, precision cleaning, heat treating, or waste processing) that either cannot be verified non-destructively or require a unique (special) non-destructive test / inspection (e.g., radiographic inspection, ultrasonic testing, pressure leak testing) shall be performed in accordance with detailed written procedures. These procedures shall specifically describe the exact manner in which the processes are to

be performed. Additionally, the following requirements apply as selected:

☐ **4.7.1** Copies of special process procedures shall be made available on request, for review by the Buyer's representative.

☐ **4.7.2** At least sixty (60) days prior to use on items deliverable to the Buyer, the Supplier shall submit to the Buyer copies of all applicable process procedures for review and approval. Revisions or changes to Buyer-approved special process procedures must be submitted to the Buyer for review and approval prior to implementation.

☐ **4.7.3** Qualification of Procedures, Facilities, Equipment and Personnel - The Supplier shall, prior to use, qualify the procedures / specifications, facilities, equipment and personnel that will be used for the performance of special processes. Only those personnel who have been qualified to perform a specific special process shall be used to perform that process. Records of such qualification shall be available to the Buyer's representative upon request.

4.8 Qualification of Procedures, Facilities, Equipment --
superceded by 4.7.3

4.9 Qualification of Special Process Personnel --
superceded by 4.7.3

☐ **4.10 End-Item Documentation Package:** The Supplier shall provide a documentation package for each shipment of the item(s) supplied, which consists of objective evidence of compliance with purchase order requirements. This documentation package shall be complete, legible, indexed, and traceable to the item supplied. Additionally, the following requirements apply as selected:

☐ **4.10.1** Copies of reports of all required or necessary inspections, examinations and tests, properly validated by the Supplier's authorized personnel.

☐ **4.10.2** A listing of the as-built configuration of each delivered item; this may be defined by the use of drawing numbers and revisions, unique parts lists or other such means of positive identification.

☐ **4.10.3** Copies of nonconformance reports dispositioned as "rework / repair" or "use-as-is."

☐ **4.10.4** Copies of material test reports for specified materials, showing physical and chemical properties.

4.10.5 -- superceded by 4.16

☐ **4.11 Release for Shipment:** The documentation package required in 4.10, shall be approved by the Buyer's representative prior to release of the item for shipment.

☐ **4.12 Shipment of Documentation Package to Buyer:** Three (3) copies of the documentation package required in 4.10 shall be shipped to the Buyer with or prior to each shipment of the purchased items.

☐ **4.13 Failure Reporting, Analysis and Corrective Action:** The Supplier shall maintain a failure reporting, analysis and corrective action system which shall, as a minimum, evaluate, analyze and correct failures occurring during qualification, first article and end-item acceptance testing and inspection. The results of all failure evaluations and analyses shall be documented and available for review by the Buyer.

☐ **4.14 Source Inspection/Surveillance:** Items to be delivered require inspection, tests or surveillance by the Buyer's representative at the Supplier's facility. Five (5) work days notice, for acceptance inspections and tests, shall be given by the Supplier to the Buyer to permit scheduling of source inspection.

☐ **4.15 Chemical and Physical Test Report:** One copy of actual chemical and physical test report(s) for each heat, batch or lot shall accompany each shipment. Test reports shall list the actual parameters tested, the acceptable limits for each parameter, and shall contain the actual readings taken during test.

☐ **4.16 Certificate of Conformance (C of C):** With each shipment, per the procurement documentation, the Supplier shall submit a certificate of conformance. In case of drop shipment, a copy of the certificate shall be submitted to the Buyer at the time of shipment. The certificate shall include the title of and be signed by an authorized representative of the company, and shall constitute a representation by the Supplier that:

A. Materials used are those which have been specified by the Buyer, and that the items delivered were produced from materials for which the Supplier has on file, reports of chemical or physical analysis, or any other equivalent evidence of conformance of such items to applicable specifications;

B. Processes used in the fabrication of items delivered were in compliance with applicable specifications forming a part of the purchase order/contract, or Buyer approved procedures or specifications;

C. The items as delivered comply with all applicable drawings, specifications and other requirements of the procurement documentation.

D. When specified, cleaning and cleanliness requirements have been completely satisfied. The C of C shall reference the Supplier's applicable cleaning procedures.

4.17 Report with Each Shipment - superseded by paragraph 4.10.

☐ **4.18 First Article Acceptance:** Buyer acceptance of first article(s) is required prior to the production run. The first article(s) shall be identified as such, including the purchase order number / contract, part number, and part name. The Supplier is required to:

☐ **4.18.1** Submit the first article(s) to the Buyer's representative for test/inspection to be conducted at the Supplier's facility by the Buyer's representative.

☐ **4.18.2** Submit the first article(s) to the Buyer for test / inspection by the Buyer at the Buyer's facility.

☐ **4.18.3** Submit the first article(s) to the Buyer together with documents showing data representing results of the Supplier's first article(s) test/inspection, including the actual dimension or value for each specified characteristic.

☐ **4.18.4** After Buyer acceptance of first article(s), all of the remaining units required by the purchase order/contract shall be produced by the Supplier and the Supplier's suppliers using the same design, materials, processes, methods and tooling that were used to manufacture the approved first article(s). Any changes must have prior approval from the Buyer.

☐ **4.19 Notification of Change to Design, Methods, or Processes:** The Supplier shall immediately notify the Buyer of any significant changes (those that may affect form, fit, function, reliability, safety,

or interchangeability) in product design, fabrication methods, material or processing from those used by the Supplier at time of Supplier's quotation or offer to the Buyer, which resulted in the purchase order.

☐ **4.20 Age/Shelf Life and Storage Control:** The Supplier shall have an effective storage and age control system for items where acceptability is limited by the age or manner of storage of the item. The system must include a method of identifying the expiration date on the containers in which material is delivered to the Buyer. Special handling conditions shall be recorded on certifications and shipping documents covering the material delivered to the Buyer. At the time of receipt, the material shall not have less than three-quarters of its shelf life remaining, without prior written approval from the Buyer for each shipment.

☐ **4.21 Serial Numbers:** The Supplier shall assign / mark a separate and distinct serial number to each end-item in accordance with the procurement documentation. A record of the serial number, for each part number, shall be maintained by the Supplier.

☐ **4.22 Lot or Batch Numbers:** For items furnished in accordance with the procurement documentation, the manufacturing lot or batch number shall be indicated on the packing list, certifications and other applicable documents. Where impractical to mark individual parts due to size or shape, the lot or batch number shall be marked on identifying tags or the smallest unit package.

☐ **4.23 Material Traceability:** Materials used must be identified by material type, applicable specification and revision number, and be traceable to their lot number(s) and / or heat number(s). Traceability records shall be available for review by the Buyer's representative.

☐ **4.24 Shipment Destination Other than BNL:** The material ordered is to be shipped to other than the Buyer's facilities. Copies of the data required in accordance with the procurement documentation shall accompany the shipment; in addition, one copy of such data shall be mailed to the Buyer on the same day that shipment is made.

4.25 Heat Treat Bars - superseded by paragraph 4.7.

☐ **4.26 Burn-in:** Burn-in shall be performed on each completed item, per the procurement specification or Supplier's Burn-In process approved by the Buyer. Records of burn-in testing, repairs and test results shall be maintained and shall be available to the Buyer's representative upon request.

4.27 Welding Procedures - superseded by paragraph 4.7

☐ **4.28 Weld/Braze Inspection Report:** A report(s) shall be submitted that indicates the complete inspection of welds or brazes from the initial fit-up stage through final inspection. Inspection reports shall be accompanied by all radiographic films, filler metal reports etc. The reports shall contain the signature or stamp, and title of an authorized Supplier representative.

☐ **4.29 Radiographic Quality Requirements:** Items requiring radiographic inspection shall be radiographed and processed in accordance with the Supplier's special process procedures that satisfy design specifications, standards or other procurement documentation requirements. Personnel reading and interpreting film shall have been examined and certified. Responsibility for this certification shall rest with the Supplier, whether the Supplier does the work or subcontracts to a specialized laboratory. A report of the findings shall include the name of the reader and the signature and title of a responsible representative. The radiographic film and a reproducible copy of the report shall accompany each shipment. An adequate method of identifying and cross-referencing each film exposure, report, and item

shall be provided. When parts are serialized, serial numbers shall appear on the report and the film.

☐ **4.30 Nondestructive Test Reports:** All nondestructive testing shall be conducted in compliance with the Supplier's special process procedures that satisfy the applicable provisions of the design specifications, or other procurement documentation requirements. Personnel and equipment utilized in performance of such tests shall be qualified for the type of test performed. The Supplier shall furnish with, or prior to, each shipment reports of such nondestructive examination of material or items furnished. These reports shall be identifiable to the respective item or material including the specific section, joints or views of the item furnished. These reports shall contain the signature and title of an authorized Supplier representative. When items are serialized, the serial numbers shall appear on the reports.

☐ **4.31 Pressure or Leak Test Reports:** Test reports shall be prepared for all pressure and leak tests. Such reports shall state the requirement, the Supplier's test procedure number, and the observed result for each item, joint or connection tested. When items are serialized, the serial numbers shall appear on the report. The reports shall contain the signature and title of an authorized Supplier representative and shall accompany each shipment.

4.32 Cleaning Certification - superseded by 4.16 D.

☐ **4.33 Calibration Certification:** The Supplier shall submit with each instrument/system a certification that the instrument/ system has been calibrated and is ready for use. The certification shall contain, as a minimum, the identity of the instrument/system, the identification of the calibration procedure used, identification of the standards and/or equipment utilized for the calibration, and a statement that the calibration of the standards and/or equipment used is traceable to the National Institute of Standards and Technology (NIST) or some other recognized national standard. Unless otherwise specified, detailed support data shall remain on file for minimum of three (3) years with the Supplier and shall be available for review by the Buyer. The certification shall also contain the signature and title of an authorized Supplier representative.

☐ **4.34 Operating-Maintenance Manual:** Documentation containing operating procedures, maintenance instructions, spare parts lists, and handling procedures shall be submitted with the shipment of the first item.

☐ **4.35 Computer Software Configuration Management:** The Supplier shall have and maintain an effective software configuration management system. The Supplier's system shall establish requirements for placing software under configuration control, provide for the positive identification of software, and the control of all software baseline changes.

☐ **4.35.1** The Supplier shall submit a copy of their software configuration management procedure(s) with their proposal for review and evaluation.

4.35.2 - superseded by paragraph 4.35.1

☐ **4.36 Computer Software Validation:** The Supplier shall develop written procedures describing the controls applied to the design of software and the validation of the design through independent technical review. The procedures shall provide for documentation of review activities, including requirements for documenting comments and resolutions of comments. Supplier software designs and review documentation shall be subject to review and approval by the Buyer.

☐ **4.37 Computer Software Verification Testing:** The Supplier shall test and verify computer software developed or modified to fulfill the requirements in the procurement documentation. The verification testing shall be accomplished by a comparison of test results with those from other verified software, or by a comparison with results from analytical solutions or Buyer-approved alternatives.

☐ **4.38 Electrostatic Discharge Control:** Items that are susceptible/sensitive to electrostatic discharge (ESDS) shall be handled and packaged to protect them from damage. Items and/or packages shall be labeled to indicate the susceptibility to electrostatic discharge.

☐ **4.39 Records:** The Supplier shall retain objective evidence, including records, of the inspections and tests performed in the course of manufacturing, testing, inspecting, preserving, packaging, and preparation for shipment of procured items. These records shall be made available to the Buyer's representative for review upon request. These records shall be maintained for a minimum of three (3) years, unless otherwise specified in the procurement documentation, after the completion of the Purchase Order / contract.

☐ **4.40 Electrical, fire protection, or scaffolding equipment, material, and systems:** All electrical, fire protection or scaffolding equipment, material, and systems delivered to BNL shall be certified, listed, or labeled by a Nationally Recognized Testing Laboratory (NRTL). The CE mark is NOT a recognized NRTL certification mark. (For a listing of OSHA-recognized NRTLs, refer to <http://www.osha.gov/>)

For electrical, fire protection, or scaffolding equipment, material, and systems which no NRTL accepts, certifies, lists, labels, or otherwise determines to be safe, the supplier shall determine the equipment to be safe for its intended use. The determination must be made on the basis of test data. The determination and test data documents shall be made available to BSA prior to or upon delivery for review and acceptance by the applicable BSA Authority Having Jurisdiction (AHJ).

☐ **4.41 Hoisting & Rigging Equipment and Powered Industrial Trucks:** All hoisting & rigging equipment and powered industrial trucks (e.g., Forklifts, Hi-Lows) delivered to BNL shall meet the requirements of the latest applicable OSHA (e.g., Part 1910) and ASME B30 Series or B56 Series standards, for Design, Construction, Markings, Manufacturers Approvals and Proof Load Testing.

When proof load testing is required by the standards, test results must be provided upon delivery.

☐ **4.41.1 Powered Industrial Truck Attachments**
Powered Industrial Truck (Forklift) Attachments shall be proof-tested by the manufacturer to 125% of the rated capacity. A certificate shall be provided upon delivery documenting the proof test.

☐ **4.41.2 Custom-made equipment**
Refer to documentation provided by BSA, e.g., specifications, drawings. Testing is required prior to acceptance. When the supplier performs testing, BSA will either witness the testing or review the test results prior to delivery.

☐ **4.41.3 Critical Lifts**
Equipment used for Critical Lifts shall be proof tested by the manufacturer to the level of the rated capacity specified in the applicable ASME or OSHA standard. A certificate shall be provided upon delivery documenting the proof test.

☐ **4.42 Marking of Outer Package and Hoisting & Rigging Services**

Each shipping container (transport package) with a gross weight equal to or greater than 400 pounds (180 kilograms) must be marked with the center of gravity and gross weight on at least one side, or end panel in addition to meeting the requirements of the latest revision of ASTM Standard D 3951-98, Standard Practice for Commercial Packaging. This applies to any item shipped (originally packaged or repackaged) to BNL or other locations cited in the purchase order or contract.

Advanced Notice, within 48 hours of expected delivery to BNL, shall be provided by the supplier or shipper to BNL's Receiving department either by telephone at: 631-344-2310 or 2325 or 2300 OR via email at: PPMTraffic@BNL.gov due to weight, size, and/or volume parameters of the end item(s) requiring special material handling/rigging by BSA personnel. Failure to contact BNL will result in delays during delivery and demurrage will be at the supplier's/ shipper's expense.

Attachment G

PROCUREMENT AND PROPERTY MANAGEMENT DIVISION

BROOKHAVEN NATIONAL LABORATORY

Managed by Brookhaven Science Associates, LLC
under contract to the U.S. Department of Energy

ACQUISITION MANAGEMENT SYSTEM FORM

Form No. AMS-Form-025

Revision No. 0

APPROVED BY:

M.F. Healey / 11/08/05

PPM Manager/Date

Payment Bond

Date Bond Executed (*Must be later than date of contract*):

PRINCIPAL (Legal name and business address)

Legal Name:

Address:

City, St. Zip

Type of Organization ("X" one)

☐ Individual☐ Partnership☐ Joint Venture☐ Corporation

State of Incorporation:

SURETY(IES) (Name and business address)

Name:

Address:

City, St. Zip

PENAL SUM OF BOND

Million(s)	Thousand(s)	Hundred(s)	Cents
Contract Date		Contract Number	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the Brookhaven Science Associates L.L.C. and any successor Contractor to operate Brookhaven National Laboratory, (hereinafter called the Oblgee) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has entered into the contract identified above.

THEREFORE:

The above obligation is void if the Principal promptly makes payment to all persons having a direct relationship with the Principle or a subcontractor of the Principle for furnishing labor, materials or both in the prosecution of the work provided for in the contract identified above and any authorized modifications of the contract that are subsequently made. Notice of those modifications to the Surety(ies) are waived.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL

Signature(s)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
Name(s) and Title(s) typed	1.	2.	3.	

**PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
ACQUISITION MANAGEMENT SYSTEM FORM**

Form No. AMS-Form-025

Payment Bond (Continued)

INDIVIDUAL SURETY(IES)

Signature(s)	1.	2.
	(Seal)	(Seal)
Name(s) (Typed)	1.	2.

CORPORATE SURETY(IES)

	Name: Address:	City, St. Zip:	State of Inc.	Liability Limit (\$)	
SURETY A					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY B					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY C					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY D					Corporate Seal
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		

**PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
ACQUISITION MANAGEMENT SYSTEM FORM**

Form No. AMS-Form-025

Payment Bond (Continued)

SURETY E	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:	,			
	Signature(s)	1.	2.		
SURETY F	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:	,			
	Signature(s)	1.	2.		
SURETY G	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:	,			
	Signature(s)	1.	2.		

Instructions

1. This form is authorized for use when a payment bond is required. Any deviation from this form will require the written approval of the Procurement and Property Management Division Manager.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the Page 1 of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3.
 - a. Corporations executing the bond as sureties must appear on the Department of Treasury's list of approved sureties and must act within the limitations listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 - b. Where individual sureties are involved, a completed Affidavit of Individual surety (Form 28), for each individual surety, shall accompany the bond. The Obligee may require the surety to furnish additional substantiating information concerning its financial capability.
4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
5. Type the name and title of each person signing this bond in the space provided.

Attachment H

PROCUREMENT AND PROPERTY MANAGEMENT DIVISION

BROOKHAVEN NATIONAL LABORATORY

Managed by Brookhaven Science Associates, LLC
under contract to the U.S. Department of Energy

ACQUISITION MANAGEMENT SYSTEM FORM

Form No. AMS-Form-024

Revision No. 0

APPROVED BY:

M.F. Healey / 11/08/05

PPM Manager/Date

Performance Bond

Date Bond Executed (*Must be later than date of contract*):

PRINCIPAL (Legal name and business address)

Legal Name:

Address:

City, St. Zip

Type of Organization ("X" one)

☐ Individual☐ Partnership☐ Joint Venture☐ Corporation

State of Incorporation:

SURETY(IES) (Name and business address)

Name:

Address:

City, St. Zip

PENAL SUM OF BOND

Million(s)	Thousand(s)	Hundred(s)	Cents
Contract Date		Contract Number	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the Brookhaven Science Associates L.L.C. and any successor Contractor to operate Brookhaven National Laboratory, (hereinafter called the Oblige) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has entered into the contract identified above.

THEREFORE:

The above obligation is void if the Principal –

- (a) Performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extensions thereof that are granted by the Oblige, with or without notice to the Surety(ies), and during the live of any guaranty required under the contract, and performs and fulfills all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) are waived.
- (b) Pays to the Oblige the full amount of the taxes imposed by the Government if the said contract is subject to the Miller Act (40 U.S.C.270a-270e), which are collected, deducted, or withheld from wages paid by the Principle in carrying out the construction contract with respect to which this bond is furnished.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL

Signature(s)	1.	2.	3.	Corporate Seal
	(Seal)	(Seal)	(Seal)	
Name(s) and Title(s) typed	1.	2.	3.	

**PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
ACQUISITION MANAGEMENT SYSTEM FORM**

Form No. AMS-Form-024

Performance Bond (Continued)

INDIVIDUAL SURETY(IES)

Signature(s)	1. _____ (Seal)	2. _____ (Seal)
Name(s) (Typed)	1. _____	2. _____

CORPORATE SURETY(IES)

	Name: Address:	City, St. Zip:	Signature(s)	Name(s) and Title(s) typed	State of Inc.	Liability Limit (\$)	
SURETY A			1. _____	2. _____			Corporate Seal
			1. _____	2. _____			
			1. _____	2. _____			
SURETY B			1. _____	2. _____			Corporate Seal
			1. _____	2. _____			
			1. _____	2. _____			
SURETY C			1. _____	2. _____			Corporate Seal
			1. _____	2. _____			
			1. _____	2. _____			
SURETY D			1. _____	2. _____			Corporate Seal
			1. _____	2. _____			
			1. _____	2. _____			

**PROCUREMENT AND PROPERTY MANAGEMENT DIVISION
ACQUISITION MANAGEMENT SYSTEM FORM**

Form No. AMS-Form-024

Performance Bond (Continued)

SURETY E	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:				
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY F	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:				
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		
SURETY G	Name: Address:		State of Inc.	Liability Limit (\$)	Corporate Seal
	City, St. Zip:				
	Signature(s)	1.	2.		
	Name(s) and Title(s) typed	1.	2.		

Instructions

- This form is authorized for use when a performance guaranty is required. Any deviation from this form will require the written approval of the Procurement and Property Management Division Manager.
- Insert the full legal name and business address of the Principal in the space designated "Principal" on the Page 1 of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
- Corporations executing the bond as sureties must appear on the Department of Treasury's list of approved sureties and must act within the limitations listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.
 - Where individual sureties are involved, a completed Affidavit of Individual surety (Form 28), for each individual surety, shall accompany the bond. The Obligee may require the surety to furnish additional substantiating information concerning its financial capability.
- Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
- Type the name and title of each person signing this bond in the space provided.

Attachment I

STATEMENT AND ACKNOWLEDGMENT

OMB No.: 9000-0014
Expires: 01/31/2008

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat, (VIR), Regulatory and Federal Assistance Division, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0014), Washington, DC 20503.

PART I - STATEMENT OF PRIME CONTRACTOR

1. PRIME CONTRACT NO. DE-AC02-98CH10886		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER	
4. PRIME CONTRACTOR				5. SUBCONTRACTOR	
a. NAME Brookhaven Science Associates, L.D.C.				a. NAME	
b. STREET ADDRESS Building No. 460				b. STREET ADDRESS	
c. CITY Upton		d. STATE NY	e. ZIP CODE 11973	c. CITY	d. STATE
					e. ZIP CODE
6. The prime contract <input checked="" type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."					
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:					
a. NAME OF AWARING FIRM Brookhaven Science Associates, L.L.C.					
b. DESCRIPTION OF WORK BY SUBCONTRACTOR					

8. PROJECT

9. LOCATION

10a. NAME OF PERSON SIGNING

11. BY (Signature)

12. DATE SIGNED

10b. TITLE OF PERSON SIGNING

PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety
Standards Act - Overtime
Compensation - (If included in prime contract see Block 6)
Payrolls and Basic Records
Withholding of Funds
Disputes Concerning Labor Standards
Compliance with Davis-Bacon and Related Act Regulations

Davis-Bacon Act
Apprentices and Trainees
Compliance with Copeland Act Requirements
Subcontracts (Labor Standards)
Contract Termination - Debarment
Certification of Eligibility

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C	
B		D	
15a. NAME OF PERSON SIGNING		16. BY (Signature)	
15b. TITLE OF PERSON SIGNING		17. DATE SIGNED	

Attachment J

**SMALL BUSINESS, VETERAN-OWNED SMALL BUSINESS,
SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS,
HUBZONE SMALL BUSINESS, SMALL DISADVANTAGED
BUSINESS, AND WOMEN-OWNED SMALL BUSINESS
SUBCONTRACTING PLAN**

MODEL OUTLINE *

Contractor: _____

Address: _____

Solicitation or Contract Number: _____

Item/Service: _____

Total Amount of Contract (Including Options) \$ _____

Period of Contract Performance (DAY, MO. & YR.) _____

* Federal Acquisition Regulation (FAR), paragraph 19.708(b) prescribes the use of the clause at FAR 52.219-9 entitled "Small Business Subcontracting Plan." The following is a suggested model for use when formulating such subcontracting plan. While this model plan has been designed to be consistent with FAR 52.219-9, other formats of a subcontracting plan may be acceptable. However, failure to include the essential information as exemplified in this model may be cause for either a delay in acceptance or the rejection of a bid or offer where the clause is Applicable. Further, the use of this model is not intended to waive other requirements that may be applicable under FAR 52.219-9. "SUBCONTRACT," means any agreement (other than one involving an employer-employee relationship) entered into by a Government prime contractor or subcontractor calling for supplies or services required for performance of the contract, contract modification, or subcontract.

1. Type of Plan (check one)

___ Individual Contract Plan - Individual Contract Plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

___ Master Plan - Master Plan means a subcontracting plan that contains all of the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

___ Commercial Plan - Commercial Plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line). The contractor must provide a copy of the approved plan. **NOTE: A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items.**

2. Goals

State separate dollar and percentage goals for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, as subcontractors, for the basic and each option year, as specified in FAR 19.704.

- A. Total estimated dollar value of all planned subcontracting, i.e., with all types of concerns under this contract, is \$ _____.
- B. Total estimated dollar value and percent of planned subcontracting with small businesses (includes small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns): (% of "A"): \$ _____ and _____%
- C. Total estimated dollar value and percent of planned subcontracting with service-disabled veteran-owned small businesses (% of "A"): \$ _____ and _____%
- D. Total estimated dollar value and percent of planned subcontracting with veteran-owned small businesses (% of "A"): \$ _____ and _____%
- E. Total estimated dollar value and percent of planned subcontracting with HUBZone small businesses (% of "A"): \$ _____ and _____%
- F. Total estimated dollar value and percent of planned subcontracting with small disadvantaged business (% of "A"): \$ _____ and _____%
- G. Total estimated dollar value and percent of planned subcontracting with women-owned small business (% of "A"): \$ _____ and _____%

H. Total estimated dollar value and percent of planned subcontracting with **LARGE BUSINESS** (% of "A"): \$ _____ and _____ %

I. Provide a description of the principal types of supplies and services to be subcontracted under this contract, and an indication of the business types planned for subcontracting to (i.e., small business (SB), veteran- owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), women-owned small business (WOSB), and large business (LB).

(Check all that apply)

<u>Subcontracted Supplies/Service</u>	<u>SB</u>	<u>VOB</u>	<u>SDVOB</u>	<u>HUB</u>	<u>SDB</u>	<u>WOSB</u>	<u>LB</u>

(Attach additional sheets if necessary.)

J. A description of the method used to develop the subcontracting goals for small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), women-owned small business (WOSB), and large business (LB) concerns (i.e., explain the method and state the quantitative basis (in dollars) used to establish the percentage goals, in addition, how the areas to be subcontracted to small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), women-owned small business (WOSB), and large business (LB) concerns were determined --include any source lists used in the determination process).

K. Indirect costs have been ____ have not been ____ included in establishing the dollar and percentage subcontracting goals stated above. (check one)

- L. If indirect costs have been included, describe the method used to determine the proportionate share of such costs to be incurred with small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), women-owned small business (WOSB), and large business (LB) concerns.

3. Program Administrator

Name, title, position within the corporate structure, and duties and responsibilities of the employee who will administer the contractor's subcontracting program.

Name: _____

Title/Position: _____

Address: _____

Telephone: _____

Duties: Has general overall responsibility for the contractor's subcontracting program, i.e., developing, preparing, and executing subcontracting plans and monitoring performance relative to the requirements of this particular plan. These duties include, but are not limited to, the following activities:

- A. Developing and promoting company-wide policy initiatives that demonstrate the company's support for awarding contracts and subcontracts to small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns are included on the services they are capable of providing;
- B. Developing and maintaining bidder's lists of small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-

women-owned small business (WOSB) concerns from all possible sources;

- C. Ensuring periodic rotation of potential subcontractors on bidder's lists;
- D. Ensuring that procurement "packages" are designed to permit the maximum possible participation of small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns within State Purchasing laws and regulations;
- E. Make arrangements for the utilization of various sources for the identification of small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns such as the Central Contractors Registration (CCR) Dynamic Small Business Search, the DOE's Small Business Energy Contract database, the VetBiz database, the National Minority Purchasing Council Vendor Information Service, the Office of Minority Business Data Center in the Department of Commerce, Women Business Enterprise Council Vendor Information Service, and the facilities of local small business, small disadvantaged business (minority), women associations, and contact with Federal agencies' Small Business Program Managers;
- F. Overseeing the establishment and maintenance of contract and subcontract award records;
- G. Attending or arranging for the attendance of company counselors at Small Business Opportunity Workshops, Minority and Women Business Enterprise Seminars, Trade Fairs, Procurements Conferences, etc;
- H. Ensure small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns are made aware of subcontracting opportunities and how to prepare responsive bids to the company;
- I. Conducting or arranging for the conduct of training for purchasing personnel regarding the intent and impact of Public Law 95-507 on purchasing procedures;
- J. Monitoring the company's performance and making any adjustments necessary to achieve the subcontract plan goals;
- K. Preparing, and submitting timely, required subcontract reports;

- L. Coordinating the company's activities during the conduct of compliance reviews by Federal agencies;
- M. Reviewing solicitations to remove statements, clauses, etc., which may tend to restrict or prohibit small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns participation, where possible.
- N. Ensuring that the bid proposal review board documents its reasons for not selecting low bids submitted by small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns.
- O. Ensuring the establishment and maintenance of records of solicitations and subcontract award activity.
- P. Other duties _____

4. Equitable Opportunity

In accordance with FAR 19.704(a)(3), the contractor agrees to ensure that small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns will have an equitable opportunity to compete for subcontracts. The various efforts include, but are not limited to, the following activities:

- A. Outreach efforts to obtain sources:
 - (i) Contacting small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) trade associations (to the extent known, identify

identify specific small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) trade associations).

- (ii) Contacting small business development organizations (to the extent known, identify specific small business development organizations).

- (iii) Attending small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) procurement conferences and trade fairs (to the extent known, identify specific procurement conferences and trade fairs and dates).

- (iv) Potential sources will be requested from the Central Contractors Registration (CCR) Dynamic Small Business Search, the DOE's Small Business Energy Contract database, the VetBiz database, and other electronic medium.

- (v) Utilizing newspaper and magazine ads to encourage new sources.

B. Internal efforts to guide and encourage purchasing personnel:

- (i) Presenting workshops, seminars, and training programs;

- (ii) Establishing, maintaining, and using small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) source lists, guides, and other data for soliciting subcontracts; and
- (iii) Monitoring activities to evaluate compliance with the subcontracting plan.

C. Additional efforts: _____

5. Flow-Down clause

The contractor agrees to include the provisions under FAR 52.219-8, "Utilization of Small Business Concerns, in all subcontracts that offer further subcontracting opportunities. The contractor will also require all subcontractors, except small business concerns, that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction) to adopt a plan that complies with the requirements of the clause at FAR 52.219-9, "Small Business Subcontracting Plan." (FAR 19.704(a)(4)).

Such plans will be reviewed by comparing them with the provisions of Public Law 95-507, and assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. The acceptability of percentage goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors facilities to review applicable records and subcontracting program progress.

As prescribed in FAR Subpart 19.301(d), the Federal U.S. Government may impose a penalty against any firm misrepresenting their business size as a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns status for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the contractor's subcontracting plan.

6. Timely Payments to Subcontractors

The Contractor agrees to ensure the timely payment of amounts due pursuant to the terms of the subcontracts with small business, veteran-owned small business, service-disabled

veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

7. Reporting and Cooperation

The contractor gives assurance of (1) cooperation in any studies or surveys that may be required by the contracting agency or the Small Business Administration; (2) submission of periodic reports such as utilization reports, which show compliance with the subcontracting plan; (3) submission of timely "Subcontracting Report for Individual Contracts," (SRI) and "Summary Subcontract Report," (SSR) in accordance with the instructions identified on the eSRS website (www.esrs.gov); and (4) ensuring that large business subcontractors with subcontracting plans agree to electronically input to the eSRS.

<u>Reporting Period</u>	<u>Report Due</u>	<u>Due Date</u>
Oct 1 - Mar 31	SRI	04/30
Apr 1 - Sep 30	SRI	10/30
Oct 1 - Sep 30	SSR	10/30
Oct 1 - Sep 30	OF-312	10/30

8. Record Keeping

The following is a recitation of the types of records the contractor will maintain to demonstrate the procedures adopted to comply with the requirements and goals in the subcontracting plan. These records will include, but not be limited to, the following:

- A. If the contractor is not using Central Contractor Registration (CCR) system as its primary source for small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) concerns, list the names of guides and other electronic data systems identifying such vendors;
- B. Organizations contacted in an attempt to locate small business (SB), veteran-owned small business (VOB), service-disabled veteran-owned small business (SDVOB), HUBZone small business (HUB), small disadvantaged business (SDB), and women-owned small business (WOSB) sources;
- C. On a contract-by-contract basis, records on all subcontract solicitations over \$100,000 which indicate for each solicitation (1) whether small business concerns were solicited, and if not, why not; (2) whether veteran-owned small businesses were solicited, and if not, why not; (3) whether service-disabled veteran-owned businesses were solicited, and if not, why not; (4) whether HUBZone small businesses were solicited, and if not, why not; (5) whether small disadvantaged business concerns

business concerns were solicited, and if not, why not; (6) whether women-owned small businesses were solicited, and if not, why not; and (7) reason for failure of solicited small business, veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged business, women-owned small business, or HUBZone small business concerns to receive the subcontract award;

- D. Records to support other outreach efforts, e.g., contacts with small disadvantaged business (minority), small business, veteran-owned small business, service-disabled veteran-owned small business, women-owned small business, HUBZone small business trade associations, attendance at small business, small disadvantaged business (minority), service-disabled and veteran-owned small business, women-owned small business procurement conferences and trade fairs;
- E. Records to support internal guidance and encouragement, provided to buyers through (1) workshops, seminars, training programs, incentive awards; and (2) monitoring of activities to evaluate compliance; and
- F. On a contract-by-contract basis, records to support subcontract award data including the name, address and business size of each subcontractor. **(This item is not required for company or division-wide commercial plans.)**
- G. Additional records: _____

9. Description of Good Faith Effort

The Contractor intends to use all reasonable and good faith efforts (as described in this Plan) to award the stated percentages of the final actual subcontract base amount with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. The following steps shall be taken.

- A. Issue and promulgate company-wide policy statements in support of the small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-

owned small business effort. Develop written procedures and work instructions, and assign specific responsibilities regarding requirements of the applicable Public Law.

- B. Review specific procurement actions for possible acquisition from eligible small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- C. Demonstrate continuing management interest and involvement in support of this effort through such actions as regular reviews of progress.
- D. Train and motivate NAME OF CONTRACTOR personnel regarding the need for the support of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- E. Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, allowing time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns to enable these firms to compete fairly.
- F. Counsel and discuss subcontracting opportunities with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- G. Execute Service Agreements, Teaming Agreements, and Basic Ordering Agreements with qualified small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms, as required, in an attempt to ensure availability and usage of subcontractor personnel to support NAME OF CONTRACTOR work efforts when required.
- H. Make available specifications, drawings, and other relevant data so that qualified, known small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equal opportunity in preparing bids.
- I. Establish and maintain a categorized list of potential subcontractors with separate identification of small business, veteran-owned small business, service-disabled

veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

Acquisition of construction estimated to cost \$3 million or less, including new construction, and repair and alteration of structures, shall be a small or small disadvantaged business 8(a) set-aside. For acquisition in excess of \$3 million, small business or small disadvantaged business 8(a) set-aside will be considered on a case-by-case basis.

This subcontracting plan was submitted by:

Signature: _____

Typed Name: _____

Title: _____

Date Prepared: _____

Phone No.: _____

Approval:

Agency: _____

Typed Name: _____

Title: _____

Date Prepared: _____

Phone No.: _____